

708 FILIZARII: K
OR, THE
Filacer's Office
IN THE
C O U R T
OF
King's-Bench.

Setting forth

The Practice by Original Writ, with
several Precedents and other Matters rela-
ting thereunto; and also a Presentment of
the Fees of all the Officers in the said Court.

Very usefull for the *Filacers*, and all
other Practicers in that Court.

By **JOHN TRYE**, of Gray's-Inn, Esq;

*Quod per Recordum probatum
Non debet esse negatum.*

L O N D O N,

Printed, by the Assigns of R. and E. Atkyns, Esquires, for Richard
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TO THE
Right Honourable,
FRANCIS,
LORD GUILFORD,
LORD KEEPER
OF THE
GREAT SEAL
OF
ENGLAND.

MY LORD,

S*ince that by the hand of divine
providence and the favour of
our most gracious Sovereign deser-
vedly confer'd upon You, You are
arriv'd to the highest Sphere in*

A 2

the

Epistle Dedicatory.

the high and honourable Court of Chancery, that Officina Justitiæ in which all Original Writs whatsoever are fram'd, and out of which they issue forth, and are returnable in all the Courts of Common Law, whereby Process thereupon are made (amongst others) in this His Majesty's Court of King's-Bench, I could not imagine with my self where to find a more fit, just and honourable Patron than Your Lordship, under the umbrage of whose Protection my weak Endeavours might be admitted shelter, being very sensible what hazard I run in this most critical and sensorious Age without the affluence of Your Lordship's favour, which I do humbly beg; imploring your pardon if I have offended by this my too great presumption, in regard I have not been so happy as to be so well known to Your Lordship as in
the

Epistle Dedicatory.

the least to expect it. It is a subject that I do not find hath been ever treated of (as to the Court of King's-Bench) by any Pen whatsoever, and the path-way to it therefore being very rough, hard and uneasie, can never be made plain either to my self or others except it meet with Your Lordship's good opinion, wherever you find the matter in it, to be centred between Truth and Justice; for both which I am most fully assured You are and will be a devoted Advocate.

My Lord,

I am the humblest of

Your Lordship's Servants,

JOHN TRYE,

To the Impartial Reader.

AS Time is the Mother of all things, out of whose vast Womb all matters and proceedings in Law whatsoever are form'd and fashion'd, so after long continuance either through interest, wilfulness or ignorance of some Practicers both in this and other Courts of Common Law, many things therein are so alter'd and chang'd from what they were originally, that they seem rather to have been Abortives than to have had a mature and timely production; And thus, I may say, it is now with the practice by Original Writ in this Court, for through all or some of the aforementioned causes, it is (as it were) grown obsolete, and the proceedings

To the Reader.

ceedings by Bill hath almost
thrown that by Writ out of
this Court; I wish that by Bill
all the happy success imagina-
ble, and do onely hope that this
by Writ may be continued in
this Court, where it hath been
formerly much used; and (as
the Returns of such Writs im-
port) be as a shadow following
its substance, our now Sacred
Majesty and his Successours,
wheresoever He or they shall be
in *England*, in which that He
may long live and have a hap-
py Reign, is not onely the hear-
ty desire but daily prayer of

John Trye.

*Gray's-Inn,
March 27. 1684.*

THE PREFACE.

BEFORE the several Matters in this Treatise come to be handled, it will be convenient to say somewhat, First, To the Etymology of the word Filacer, or Filizer; Secondly, To the nature of his Office; and Thirdly, To the antiquity of it.

And First, As to the word Filacer, or Filizer, it is observable that Cowell in his Interpreter, and the Book called, The Terms of the Law likewise, speaking of such Officers in the Court of Common Pleas, say that it comes from the French word Filace, i. e. a Thread, on which, as in that Court, so in this, it may be very well thus paraphrased, That it is a Thread indeed, without which anciently, in this Court as well as in that, there could have been no web or work made for the dispensing and administering of Justice and Right to all, and a Rule that leadeth all Persons, Plaintiffs in this Court, so
B directly

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directly to their Rights, that it will force the Defendants at last to appear and plead : And although these Books do take notice onely of such Officers in the Court of Common Pleas, yet (as will appear hereafter in this Treatise) former Statutes, and those very ancient, have, and do make mention of such Officers as Filizers in this Court : Or perhaps, and most likely, he was heretofore so called for that it may be, he did not onely make out divers Writs and Process in his Office, but did also thread or file up the same, as the Custos Brevium of this Court now doth, before ever there was any such Officer in this Court ; and being the King's Clerk in Court, is always admitted into his Office by the Lord Chief Justice of this Court, for the time being, and by no other Judge thereof, by delivery of a Parchment Roll of such his admission to him, as Livery and Seizin of his place, after that he hath taken the Oaths of Allegiance and Supremacy, and this Oath following ; viz.

The Filizer's
Oath upon
his admission.

A. B. You shall swear well and truly to exercise the Office of a Filizer for the County of C. and also truly and diligently to extract all Fines, Issues and Amerciaments due to our Sovereign Lord the King arising in your Office, during the time you shall so remain Officer ; So help you

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you God. *By which it appears, that in his Office he is bound to serve the King as his Clerk, and from him, for that his service he hath time out of mind had a privilege to write or style himself Clerk to our Sovereign Lord the King assigned to inroll Pleas in this Court before the King himself, being so styled in Cokes Book of Entries, fol. 20. in a Case between Hughs a Filizer Plaintiff, and Keme Defendant, and entred in this Court in Trin. 7 Jacobi Regis rotulo 1490. and also in Hilar. 20. ejusdem Regis rotulo 5. int. Gosnold a Filizer Plaintiff, and Dereson Defendant; which said privilege hath also lately been allowed by this Court to be such, upon Pleas in abatement, unto Declarations filed against them, in which these words (ad Placita in Cur. Domini Regis coram ipso Rege irrotuland. assignat.) have been omitted; And in his Office he hath a Freehold for life granted him, as may appear by the Entry of an admission of a certain Filizer on record; and might be proved by divers other Precedents, but one may suffice; and may serve for other Entries in the like nature when granted upon a Surrender of the then present Filizer, and if it be not upon Surrender, yet with a little variation it may also*

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*serve upon admission into any vacant place ;
It is entred in this Court, Termino Pas-
chæ An. 33 Elizabethæ, upon one Hils-
dons a Filizer's Rolls, at the beginning of
the Rolls thus,*

The Entry of
his admis-
sion.

Sile. Paschæ

38 H. 6. rot.

73. &

Mich. 26 &

27 Eliz. rot.

primo &

Mich. 8 Car.

primi rot.

primo

Memorandum quod cum *W. L.* gen-
seit. existen. de & in officio *Filizar.* pro
Com. *B. & B.* idem *W.* die, &c. prox.
post, &c. isto eodem Termino coram
Domina Regina apud *Westm.* in propria
persona sua ven. & ex mera & sponta-
nea voluntate ipsius *W.* fursum reddidit
in manus *C. W.* Mil. Capitalis Justic.
dominæ Reginæ ad placita coram ipsa
Domina Regina tenend. assign. Offici-
um *Filizar.* dictor. Com. *B. & B.* præ-
dict. Et idem *C. W.* adtunc & ibidem
prædict. Officium *Filizar.* dictor. Com.
B. & B. *Thomæ Hilsdon.* gen. tunc præ-
sent. in Cur. dedit & concedit & ad-
dictum Officium *Filizar.* Com. *B. & B.*
prædict præfat. *T. H.* adtunc & ibidem
admisit, Habend. Tenend. Occupand. &
Exercend. sibi ut liberum Tenementum
suum, &c. cum Feod. vad. & proficuis
eidem Officio incumben. & de antiquit.
debit. & consuet. Et dictus *T.* jurat. est.

Secondly, *As to the nature of his Of-
fice ; you see by his Oath aforesaid, He
is bound truly and diligently to extract
all Fines, Issues and Amerciaments due*

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to our Sovereign Lord the King arising in his office, and so he is also bound as the King's Clerk, in Term-time to attend the Grand-jury for the body of the County of Middlesex where the King's Court of his Bench is now resident, or where-ever else it shall be in England, to draw the Inditements that they are to present, and (if occasion) to ingross them; but it hath been usual of late years for such Filizer, to whose lot it falls (being appointed thereunto by the Court) to get one of the Clerks of the Crown Office (being always ready in Court) to attend and perform this service for him: And for a farther account of the nature of his Office, it will not be amiss here to set before you a Copy of a Narrative delivered me by a late Cap-officer of this Court, which was heretofore (as is conceived) addressed by one Edgar, Filizer of London in this Court, and other the then Filizers thereof by way of Petition to the then Judges of this Court about the year of our Lord 1630. And some short time before that, the said Presentment (in the Title page mentioned) was made of the Fees of all the Officers of this Court, and taken by virtue of his then Majesty's Commission under his great Seal of England, a part of which Commission, together with a Copy

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of the said Presentment you may find placed at the end of this Treatise; In which Narrative or Petition rather it was thus then declared and set forth,

That the Filizer is the onely immediate Clerk and sworn Ministerial Officer in this Court for the King's assured and true service therein; By whose duty through continual and constant use, and former practice in the Law diligently performed great increase of profit hath been in all former Ages in a very great measure augmented yearly unto the Crown of England, untill of late years; and now, that the Statutes de An. 2 H. VI. cap. 10. and 5 & 6 Ed. VI. cap. 16. are so neglected, as that through gross ignorance, daily abuses of right Entries and Proceedings upon Original Writs, have so changed and altered the right institution of the Law in that Point, (to the scandal and slander of the Law) that the wonted yearly profit of the Crown of England is thereby stopped and diverted, and the People of England much grieved and oppressed, all which happening through the innovated, incroached and intermixed practice illegally of the Servants of the Chief Clerk, who being no immediate Clerks of the King, nor sworn for performance of true Service to him, and having neither Offices to be seised

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seised, or places to be fore-judged of, they corrupt, usurp, and abuse the process, practice and Offices of the said Filizers, by making process to, and of Outlawry, in the name of the Filizers, without their privity or consent; and afterwards never file the Writs of Exigent, by which Fraud the King's Majesty is deeply prejudiced both in the real and personal Estate of the Party outlawed by common Bayls taken by consent of such Servants or Clerks to the Chief Clerks; And there is or ought in Law to be, the King's Clerk, (the Filizer) constituted upon oath to perform and doe these Services for the King and People, for every City and County of this Kingdom upon forfeiture of his Office, if found in any Fraud committed; All which, with divers other Enormities and Abuses, the then Filizers offered, and were ready to make appear to the said Court.

Upon which it appears, that the then Filizers did satisfy the then Judges of this Court of the nature and duty of their Offices; And what it was then, it continues so still, being since that, never altered by any Act of Parliament, or any other due course of Law; And (that as formerly) so now much profit will accrue to the Crown of England by proceedings grounded upon Original Writs (and

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therefore ex debito Justitiæ ought to be encouraged in this Court) is very plain and obvious. And seeing it is the duty of every loyal Subject, of what degree soever, to advance the Revenue of his Prince as much as he can, by discovering all legal ways and means by which it may be obtained; so, much more of him or them that are not onely Subjects, but also Officers of the Court under him as is before said the Filizers of this Court are. And first of all, great profit would accrue to the Crown of England by such proceedings in respect of the great number of Original Writs that would issue out of the High-court of Chancery yearly more than now do, whereby the Seals in that Court would much increase. Secondly, in respect of the many Fines, more than now are, that would be paid upon such Originals yearly, whereby his Majesty's Fines in that Court would be also much increased; And thirdly, in respect of the great number of Writs that would be sealed in this Court of King's-bench by his Majesty's Green-wax Seals, more than there is at present; whereby the yearly Revenue thereof would likewise be much augmented, for if any Defendant be arrested by a Writ of Capias ad respondend. upon an original returnable in this Court, then indeed

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deed one Writ serves, but if the Plaintiff cannot thereupon arrest him (as commonly it falleth out so) then is he forced to take out, an alias Cap. and after that a plur. Cap. and if he cannot arrest him upon either of these two last, then he takes out an Exigent and Proclamation, and all this is in the Law a favour to the Defendant to cause him to appear if he will, and if he will not, then upon returns of the Exigent, an Outlawry goes out against him; So that in many actions there are five Writs commonly sealed in this Court, in one cause before the appearance of the Defendant, and after appearance, in each cause a Superfedeas, and for non appearance, an Outlawry, and divers other Writs, All which matters (duly considered) would certainly as much augment the Revenue of the Crown of England, as it hath done formerly when this practice by original Writ flourished in this Court.

Thirdly, As to the antiquity of his Office, It is evident, (and will be so) to any person that will take the pains to search the Records of this Court in the Reign of Edward the Third, that there were then such Officers as Filizers in this Court; For that at the bottom of the Plea Rolls of this Court are set their Names, as so many several * Prothonotaries * Or chief
10 Clerks.

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to such Writs and Issues and other proceedings as they then entred, and it is possible to prove it also before that time; but this being above 300 Tears since may be thought sufficient, and for above 200 Tears past, it appears by the Statute of the tenth year of the Reign of Henry the 6th. Cap. 4. and the 18th. of the same King Cap. 9. (where in both those Statutes the Filizers and Exigenter of this Court are mentioned, that there were then such Officers in this Court, and to go much farther if it were necessary it is rational to presume that there were such, before the Norman Conquest; For that my Lord Coke in his Preface to his third Report saith, That Writs of Assise and other Original Writs were returnable into the King's Courts before the Conquest, and that (as Justice Fitzherbert saith in his Preface to his Book called Natura Brevium, that seeing they be (speaking of such Writs) the Rules and Principles of the Science of the Common Law) they do manifestly prove that the Common Law of England, had been time out of mind of man before the Conquest, and was not altered or changed by the Conquerour. And therefore certainly if such proceedings then were by original Writs, it is no Foreign presumption to believe there were such

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such Officers as Filizers who made out such Writs. Also under the name and Office of a Filizer in this Court is comprehended the Exigenter, The Clerk of the Superseideas, the Clerk of the Outlawries, and the Clerk of the Jurours, and therefore it will be necessary to consider all these places apart, and distinct the one from the other, and to observe what they do in these several Capacities.

And First, As Filizers they have and do, and of right ought to make out and enter upon all Actions brought by original Writ, all Writs and Process whatsoever, some whereof are these, viz. all Cap. Als. Plur. Testat. Cap. Distring. in Trespass and trespass on the Case, and in every suit, qui tam. &c. in every Rapt. Custod. in every trespass contra formam ordinationis, in every ejectione firme and such like special Actions, every Cap. Als. Plur. in appeal of Murther, Robbery, and Maihm. every Resummons Habeas Corp. & Distring. in Attaint. and Writs of Withernam, Second deliverance and retorn. habend. and venir. fac. subpoena Distring. Jur. and divers other such like Writs, They likewise take and enter all appearances general or special, wherein good bail is required, upon original Writs they enter all general and special Imparlances

1. As Filizers.

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lances, they make Copies of writs of Attaint, and they give Rules ad narrandum ad placitandum ad replicandum and the like, and enter Nonsuits for want of declaring, and these things and the like they do as Filizers.

2. As Exigents.

Secondly, *As Exigents, they make out and enter in the actions before mentioned and such like actions, all and every Writ or Writs of Exigent and Proclamation, Allocat. Exigent. post Cap. Scir. fac. sur. general. ou special pardon le Roy, and such like Writs.*

3. As Clerk of the Superseas.

Thirdly, *As Clerks of the Superseas, they make out and enter upon the Exigent roll in the said actions and such like, all Writs of Superseas, quia improvide or otherwise; all Writs de non molestando and other such like Writs, both as well upon appearance of the Defendant to the Exigent, as after that the Defendant is outlawed, and either his Body taken by a general Cap. Utlagat. or his Lands or Goods by a special.*

4. As Clerk of the Outlawries.

Fourthly, *As Clerk of the Outlawries, they make out and enter in the said actions, all the said Writs of general and special Cap. Utlagat. and deliver them of Record, and transcribe such special Capias and Inquisition when returned into the Exchequer, and make out likewise the*

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the Cap. pro Fine Regis sur. capiāt, and other such like Writs, and if such Outlawry be reversed they enter up such reversalls.

Fifthly, As Clerks of the Jurors, They likewise make out and enter in the said Actions, all Distring. Jur. or Habeas Corpor. and deliver them of Record and (as is said before) attend in Term-time the grand Jury for the County of Midd. or in whatsoever other County the Court of Kings-Bench shall sit. They are Attorneys of this Court as soon as they are admitted Filizers, and do practise (if they please) as Attorneys by Writ or Bill, but they cannot enter any thing by Bill on the Prothonotary or chief Clerks rolls, but one of his Clerks must enter for them. Their Writs and Proceß are always filed with the Custos Brevium, and not with the said Prothonotary or chief Clerks, and they do many other things belonging to their said Offices, too long here to insert, and are therefore here spared, because more of this matter may be found in the Copy of the presentment before mentioned placed at the end of this Book. In the Court of Common-Pleas the Proceß to the Outlawry runs through divers Officers or Clerks hands, but in this Court it is all in one person the Filizer, which is such a sole and absolute Officer, and his Office

5. As Clerk
of the Jurors

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Office was and is much after the same manner executed, as the Prothonotary's Office of Monmouth, and there was no more but one such Officer in this Court to all the ends and purposes aforesaid, both before and in the time of Henry the 6th. (nor since) in which time the practice by original Writ in this Court was greater than that by Bill. Let this suffice (by way of Preface) to shew what Writs and Process do belong to the Filizers of this Court to make out and enter. It is most certain, and I make no doubt but that it will be granted me, that all the supreme Courts of Common-Law at Westminster, through length of time have very much intrenched the one upon the other, (as might easily be made appear, but that being nothing to the matter in hand shall be passed over) and that it is as difficult to reduce their ancient practice into its right and due course, as it is to divert the water of Thames from running in its now Chanel; but yet certainly it is not so hard a task for any of the said Courts to set to rights the different practice within the same according to its ancient use and Custome, and thereby hinder one Officer from intrenching upon another, which brings me to the first matter intended to be handled, which is as follows.

THE

THE
 FILACER'S-OFFICE
 IN THE
 Court of *King's-Bench*.

*That the Practice by original Writ, is
 of very great antiquity in the said
 Court.*

First.

FOR the proof whereof it is necessary to observe that heretofore and now at this time also, there are three several ways of proceedings in this Court, that is to say by original Writ, by Bill, and by Attachment of privilege.

The First, Grounded upon a Writ issuing out of the high Court of Chancery returnable in this Court.

The Second, Grounded upon the Custome of the Court.

The Third, Grounded upon the grace and favour of the Court, besides divers other proceedings upon Actions removed out of inferiour Courts by Writs of *Recordare, Certiorari, Habeas Corpus*,
 and

and the like into this Court; and although my Lord *Coke* in his Preface to his eighth report saith, that all the four supreme Courts at *Westminster*, be all the King's Courts, and have been time out of Memory of Man, so that no man knoweth which of them is most ancient, yet without doubt it may be easily known what was the original practice in this Court, for the said Lord *Coke*, treating of this Court, in his 4th. *Institutes Cap. 7.* saith that if a Writ be returnable *coram Justic. nostris apud Westm.* it shall be returnable in the *Common-Pleas*, but if it be returnable in this Court it must be thus, *coram nobis ubicunque fuerim. in Anglia*, and takes no notice of any Writ returnable in this Court, at a certain place; and farther he saith in the same Chapter, that in former times some ill disposed Clerks of this Court, because they could have no original Writ out of the Chancery for Debt returnable in this Court, they would sue out an original Writ in an action of trespass (a mere feigned action) and so proceed to the Exigent, whereas in truth the cause of Action was for Debt, and when the Defendant appeared, &c. all the former proceedings were waved, and a Bill filed against the Defendant

Defendant for Debt; This he there
 saith is an unjust practice in derogation
 of the dignity and honour of this Court,
 and worthy of severo punishment ac-
 cording to the Statute of *Westm.* the
 First, *Cap.* 29. when it is found out.
 And now in these times, although some
 Clerks and Attornies of this Court doe
 not the very self same thing, yet they
 come very near to such irregular prac-
 tice, for that they do very often pro-
 ceed by original Writ in such actions
 as they may justly proceed in as far as
 the Exigent; and when the Defendant
 appears thereunto by *Supersedeas*, then
 is there a Bill filed or *Declaration* delive-
 red in Debt or any other action by consent
 of the Attornies on both sides, suppo-
 sing the Defendant to be in *Custod.* *Ma-*
rescalli, &c. as if he had been arrested
 by a Bill of *Middlef.* or *Latitat* (that
 supposes a Bill) in this Court, and so
 waive the whole former proceedings by
 original Writ and proceed on to Judg-
 ment by Bill, a matter certainly wor-
 thy to be taken notice of by this Court,
 as an abuse put upon the ancient pro-
 ceedings by original Writ therein, and
 not onely against a known rule or ma-
 xim in Law expressly, *Quod omnis bre-*
vis Judicialis sequitur suum Originale, but
 C also

also may prove very prejudicial to the Plaintiffs in such actions, if the same should happen to be taken notice of, there being nothing in Court as a foundation to warrant such proceedings by Bill, and so all as it were *coram non Judge*. And it seems that, that great and learned Lawyer looked upon all Writs whatsoever, returnable in this Court to be returnable *coram nobis*, that is, *coram Domino Rege ubicunque tunc fuerit in Angl.* this Court being moveable with the King's Person, (and not local as the *Common-Pleas* is,) and therefore called the *Kings-Bench*, and that this is the natural and genuine style of this Court may be gathered from hence, that several of the former Kings of *England* have sate personally in this Court, as the said Lord *Coke* saith in the same Chapter, and as *Speed* in his Chronicle, fol. 595. observes that, *Henry* the Third sate in person with his Justiciars upon the Bench at the Arraignment of *Peter de Rivallis* and others, and that he gave Sentence against him and sent him to the *Tower*. And also Sir *Richard Baker* in his Chronicle, fol. 205. saith, that *Edward* the Fourth sate in *Michaelmas-Term*, in the Second year of his Reign, three days together publicly

publickly with his Judges in this Court, to acquaint himself with the orders of the Court, and to observe what needed reformation in it, either at Bench or at Bar. The former of these Observations, together with some other matters in the like nature, are reported by Mr Serjeant *Rolls* in the first part of his abridgment, *fol.* 535. And I believe it to be the hearty desire and affectionate wish of every Loyal Subject, especially of the long Robe, that his now Majesty would be graciously pleased (once in his Reign at the least) to honour this his peculiar Court with his most glorious presence, a sight certainly that would be in its self so transcendently excellent, that it would parallel if not exceed that of his Coronation. But to come more close to the matter proposed, It appears as is said before, (if the most ancient Records may not possibly be by some against usual practice (as they have lately been) esteemed the weakest evidence,) that in the beginning of the Reign of *Henry the Sixth*, which is now above two Hundred and Twenty years since, and are the oldest Rolls now remaining in the upper Treasury of this Court, and long before that time also by Records

*Will begin
of Elizth pro-
-ced. by Orig-
-inal more
common than
by bill.*

in other places, and from that time un-
till about the beginning of Queen *Eliz-
abeth's* Reign, The proceedings in
this Court were more by Original Writ
than by Bill, The several Terms and
Number Rolls, and the years in which
they are being too numerous here to in-
sert, and would have made this Book
larger than intended, and therefore it
is left to the Judicious Reader (if he
pleases) for his own satisfaction at his
leasure, to search the same Records
which are very well worthy the labour
and trouble of any that desire to be ac-
quainted with antiquity of this nature;
And this may be sufficient to shew that
the Practice by original Writ although
now much decreased from what it was
at first hath been very anciently used
in this Court.

Secondly. *That it prevents in a great Measure the
delay of Execution, after Judgment
had and obtained.*

IT is very well known to all Practi-
cers (I presume) in this Court,
that in all actions brought by Bill in
this Court, in which after the Plaintiffs
have recovered and are ready to take
out

out Execution, that a Writ of Errour may be brought thereupon by the Defendant returnable in the Court of *Exchequer-Chamber*, and very easie at all times to be purchased, but in all actions brought by original Writ and Judgments thereupon had and obtained, no Writ of Errour lieth thereupon, but must be returnable in the high Court of *Parliament*, and that not so easie to be purchased, the charges thereof being very great, the Fees being most or all of them double over and above what those are of Writs of Errour returnable in the said Court of *Exchequer-Chamber*, and upon the affirmation of such Judgment in *Parliament*, there is always very great costs awarded and taxed to the Defendant in the Writ of Errour who is Plaintiff in the action for delay of his Execution occasioned by such Writ of Errour; besides no Writ of Errour can be obtained in such case but when there is a *Parliament* in being, for no Writ of Errour can or ought to be returnable *ad proximum Parliamentum*, in regard it would be so great a prejudice and delay to the Subjects Plaintiffs in such actions, the times of convening of *Parliaments* being so uncertain, and onely lying in the King's power as Su-

preme, (it being his Royal Prerogative) to Call, Prorogue, Adjourn and Dissolve them when he pleaseth : So that for the reasons aforesaid, Writs of Errour are seldom brought upon such Judgments as are recovered upon actions brought by original Writ, Nay yet farther also after all this, when such Judgments before obtained by Bill, are affirmed upon the Writ of Errour in the *Exchequer-Chamber*, yet may a Writ of Errour *per Stat. de Anno. 27. Eliz. Cap. 8.* be brought returnable as aforesaid in the said high Court of *Parliament* to the intollerable delay and vexation of the Plaintiffs in such actions, a thing which the common Law of *England* in its own nature abhors and detests, it being *Festinum Remedium*, and its property such as (in some reasonable time) *suum cuique dare*, and therefore it is certainly the best way so to bring actions and after such a manner (especially where Titles of Land are concerned, or great damages likely to be recovered) that so after Judgment had, Execution may not long be delayed, which is for the good and interest of the Subjects who are Plaintiffs in such actions,

That

That against some sort of Persons, and in some sort of Actions, there is no other way to proceed in the said Court, but by Original Writ. Thirdly,

BY the Law of this Land, no Peer thereof ought by his Body to be taken or arrested by virtue of any Writ or Process in any Civil Cause whatsoever. But although he may not be arrested, yet may an Original Writ of *Pone*, in the nature of a Summons, as the Case requires, issue out of the *High-court of Chancery* to cause him to appear at the return of such Writ in this Court, there to answer the Plaintiff in such Writ named, to his Complaint therein mentioned, and if the Sheriff, to whom such Writ is directed, do thereupon return that he hath taken Pledges of such Peer to appear in this Court, according as by the said Writ he was commanded, and he do not appear accordingly, Then upon such return, there may be had from the *Filizer* of the said County a Writ of *Distring*. directed to the said Sheriff, commanding him that he distrain such Peer by all his Lands and Chattels, &c. in order to cause him to

First, as to Persons.
scilicet.

C 4

appear,

appear, and if he do not thereupon appear, and such Sheriff return issues thereupon *ad valentiam*, &c. Then the said *Filizer* may make forth an *Alias distring.* and also upon return thereof a *Plur. distring. ad infinitum*, untill such Peer do appear; and it is the usual course for such Sheriff to increase or double the issues upon every return; but if he return but small issues, the Plaintiff (if he pleases) may move this Court that such Sheriff may return better Issues (that is to say) greater Issues; all which Issues must be by the Plaintiff's Attorney brought into the *Filizer's* Office, who made out such *Distring.* and from thence estreated into the Court of Exchequer, there to be levied upon such Peer's Lands and Chattels, by way of forfeiture to the King, for his not appearing as aforesaid; And upon a *nichil habet* returned by the Sheriff upon such *Distring.* there may go out a *Testat. distring.* into another County where such Peer hath Lands or Chattels, and be proceeded upon as aforesaid. But if in case that such Sheriff do return likewise a *nichil habet* upon such Writ of *Pone* before mentioned, then the Attorney for the Plaintiff may have an *alias*, or rather a *Testat.*

Pone

Pone from the said *Filizer*, directed unto the Sheriff of that County where such Peer liveth and hath sufficient, and upon a return of Pledges taken as aforesaid, the said Attorney may proceed thereupon by *Distring. ad infinitum*, in form aforesaid; And besides such honourable Persons as Peers, who for their honour are said to be à *Late-re Regis*, and are protected by Law from attaching or arresting by their Bodies in all Civil Causes, as is before said, There are other Persons, that in their politick capacity cannot be arrested or attached, such are all Corporations and Societies of men that act all under one Common Seal of their Corporation, as the Mayor, Aldermen, &c. of any City; The Dean and Chapter of *W.* The Master, Wardens and Fellows of a College, and the like, and any Company incorporated in the City of *London*, or elsewhere; And likewise all Hundreders in any County, which are liable to be sued upon the Statute of *Huy and Cry*, where Robberies are committed, and Felons escape; such Bodies of Men being very numerous, and no single Person in his natural capacity bound to answer in any Action whatsoever; but yet they may be proceeded

Corporations.

*Hundreders
sued on Statute
of Huy & Cry*

ceeded against to be made appear and answer in the same manner and way as the Peers of this Realm may by *Distring. ad infinitum*, and after Judgment had, any of their Goods and Chattels may be taken in Execution; and if it be in the Case of Corporations, they must by their bye Laws apportion the *Levari* upon the rest, and thereby ease him or them whose Goods are taken, and if it be in the case of Hundreders, then any Person or Persons grieved may complain to two of the Justices of the Peace of the County wherein such Robbery was committed (whereof one to be of the *Quorum*) who have full power by the Statute of 27 of *Eliz.* cap. 13. to tax and rate the said Hundred for and towards an equal contribution of the damages recovered, that so the burthen of the Execution may not lie wholly upon some few of the said Hundreders, and thus much as to the Persons.

Secondly, as
to Actions.

Now as to the Actions, which lie not in this Court but by Original Writ; no *Quare impedit*, Writs of Right, *Replevin*, and such like, come into this Court, but either by Original Writ primarily, or else *Plaints* are entred in Inferiour Courts, and removed hither by several

several Writs, which are in their own nature as so many Originals, and returnable *coram nobis ubicunque*, &c. as Writs of *Recordare fac. loquend. Acced. ad Cur. Certiorar.* Writs of Errour, and the like; and upon these there can be no prosecution by Bill in this Court: So that if they could not be proceeded in by Writ, this Court would lose and want much of the practice and business it now hath, and hath long had, and I wish long may have; and the same or most part of it would be brought in the other Courts of Common Law at *Westm.* And thus you see, that against some sort of Persons in their single Capacities, and against other sort in their politick Capacities, and against some others, as men inhabiting in any Hundred; and in some sort of Actions there is no other way to proceed in this Court but by Original Writ.

That it is most agreeable to the Statute Fourthly, lately made for setting forth the cause of Action in the Writ.

IT hath been formerly the practice in this Court by Bill of *Middles.* or *Latitat* and process thereupon, to arrest

rest in trespass generally not mentioning the cause of action therein, and yet obliging the Defendants to put in good Bail to the Plaintiff's Suit, by marking the backs of such Writs or Process for good Bail, and giving the Sheriff notice to take good Bail to such a Sum whatever the nature and cause of action was, and by marking the Roll wherein such Writs and Process were entred for good Bail by drawing a Line under the Defendant's name, and writing over it, *bon. Manu capt.* and then the Attorney for the Defendant ought not to file a common Bail without searching such Rolls. But this hath been thought very inconvenient and unreasonable by a late Parliament, that Defendants should be obliged to put in Bail to the Sheriff to that of which they understood not any thing of the cause of action; which made it very difficult to such Defendants to procure Bail, especially if they happened to be arrested in places where they were strangers, and therefore ought the rather to be able to satisfy such Persons, as would be Bail for them, what the matter and cause of action was for; which in this way of proceedings the Defendants never knew untill they came

came at the return of such Writ or Process to put in good Bail above (as it is usually called) that is, before some Judge of this Court; and then received a Declaration: And if they did not put in good Bail, then such Bail-bonds as were given to the Sheriff for their appearance were forthwith put in suit, which mischief being seen and considered of, both in this Court, and in the *Common-Pleas*, was by the said Parliament remedied by an Act made in the thirteenth year of his now Majesty's Reign, *cap. 2.* at the second Meeting of that Parliament. The words of that Act (amongst other matters) are these,

“ For remedy and prevention of which
 “ so great growing evils and mischiefs,
 “ and also for discouraging all frivolous
 “ and unjust Suits and causeless arrests for
 “ the future, Be it enacted by the King's
 “ most excellent Majesty, by and with
 “ the advice and consent of the Lords Spi-
 “ ritual and Temporal and Commons in
 “ this present Parliament assembled, and
 “ by the authority of the same, That
 “ from and after the twelfth day of *Fe-*
 “ *bruary*, in the Year of our Lord, one
 “ thousand six hundred sixty and one,
 “ No Person or Persons, who shall hap-
 “ pen to be arrested, by any Sheriff,
 Under-

“ Under-sheriff, Coroner, Steward or
 “ Bayliff of any Franchise or Liberty, or
 “ by any other Officer, Minister, Un-
 “ der-bayliff, or other Person or Persons
 “ whatsoever within this Realm, ha-
 “ ving or pretending to have authority
 “ or warrant in that behalf by force or
 “ colour of any Writ, Bill or Process is-
 “ suing, or to be issuing out of his Ma-
 “ jesty’s said Courts of the *King’s-Bench*
 “ and *Common-Pleas*, or either of them,
 “ in which said Writ, Bill or Process the
 “ certainty and true cause of action is
 “ not expressed particularly, and for
 “ which the Defendant or Defendants in
 “ such Writ, Bill or Process named, is,
 “ and areailable by the Statute in that
 “ behalf made in the three and twentieth
 “ year of the Reign of the late King *Henry*
 “ the Sixth, shall be forced or compelled
 “ to give Security, or to enter into bond
 “ with Sureties for the appearances of
 “ such Person or Persons so arrested at
 “ the day and place in the said Writ,
 “ Bill or Process specified or contained
 “ in any penalty or sum of money ex-
 “ ceeding the sum of forty pounds, of
 “ lawfull money of *England*, to be con-
 “ ditioned for such appearances, and
 “ that all Sheriffs and other Officers
 “ and Ministers aforesaid, shall let to
 “ bail

Note the true
 cause of action
 is to be ex-
 pressed parti-
 cularly.

" bail and deliver out of Prison, and
 " from their and every of their custo-
 " dies respectively, all and every Per-
 " son and Persons whatsoever, by them
 " or any of them arrested, upon any
 " such Writ, Bill or Process, wherein
 " the certainty and true cause of action
 " is not particularly expressed upon se-
 " curity in the sum of forty pounds
 " and no more, given for appearance of
 " such Person or Persons so arrested,
 " unto the said Sheriff or Officer afore-
 " said, according to the said Statute, in
 " the said three and twentieth year of
 " the Reign of the said late King *Henry*
 " the Sixth, in that behalf made and
 " provided. I have recited this part of
 the Act *in his verbis*, for that it may be
 of use to them that have not the Act at
 large, and that it may be seen how ex-
 pressly and to a tittle it is fulfilled in the
 proceedings by Original Writ; For it
 hath ever been the constant practice in
 such proceedings, to express the true
 cause of action particularly in the Ori-
 ginal Writ, and in every Writ of *Capi-*
as alias and *plur.* thereupon to arrest,
 and also to what Sum the Plaintiff lay-
 eth his damage, that so the Defendant
 may procure Bail accordingly. And if
 it happen (as oftentimes it doth) that
 such

such Defendant either is not arrested or doth not appear upon any of the said Process taken out against him, but suffers himself to be so far proceeded against as to the Exigent ; yet still that he may know what he is sued for, there is mention made at large of the express cause of action, both in the Writ of Exigent, and also in the Proclamation, directed to the Sheriff where it is known or supposed the Defendant doth inhabit, that so he may take care, either by himself or his Attorney, to appear thereunto, and thereby prevent, if he will, his being outlawed. By all which it appears, that the proceedings in this Court by Original Writ heretofore, were, and now are, such as are altogether agreeable to the late Statute so made as aforesaid for setting out the particular cause of action in the Writ.

That

That the Filizers of the said Court have not onely made and entred on record, Writs and Proceß by original, but also entred Declarations, Imparlances, Issues, Judgments, and divers other proceedings thereupon, and also have inrolled Indentures, and all this upon their Filizers Rolls. Fifthly.

IF (as is said before) Records themselves will not with some be looked upon (as they have lately been a disputable evidence, especially when very ancient) it is not to be doubted, but that this assertion may be also very easily proved, and why they should be thought the rather to be so, because of their antiquity, no more reason can be given for it (that I know of) than that an Act of Parliament now in force and unrepealed, made two hundred years since, should have less power to command obedience to it, than one made but twenty years since; nay, certainly the antiquity of any proof should make it the better: And should you here have an account (as it is possible to be done, but with great trouble) of the several Entries that have been made by

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the *Filizers* of this Court upon their own Rolls (for so they are called for distinction sake onely, to differ them from the Prothonotary or chief Clerks Rolls) for most truly and properly all the Rolls of this Court are the King's Rolls, or Rolls of the *King's-Bench*, and that for the space of two hundred years and upwards (omitting the times before that) it would but tire your patience and swell this Volume to be ten times as big as ever it was intended to be. But as it is easie, *Pede Herculis*, to guess at the magnitude of his whole body, so by some few that shall here be set down, as plainly and as truly as they may be (that they may be repaired unto if occasion) you may guess at the multitude that might have been inserted, and therefore some few in each King and Queen's Reign within the time aforesaid, may be sufficient in all reason to prove this point. And now to begin with the Reign of *Henry* the Sixth, being, as is said before, the oldest Rolls that are in the upper Treasury of this Court, and so to bring it down (according to the search I have made, to these times. It appears in *Paschæ primo ejusdem Regis*, In whose time the *Filizers* Rolls were always filed

led first after the *Rotulo primo*, which hath usually been a richly gilded *Roll* with the King's Picture drawn in the first Letter of the word *Placita*, sitting, as it were, upon the Bench in Court, and it sets forth the Person before whom, the place were, and the time when the pleadings were held; To all which the chief Justice his name is put as a Witness, and then the *Filizer's* name that provided that Roll at the bottom of it; And this ought to be filed in every Term, it being a great ornament to the Rolls themselves; and 'tis a great neglect some-where to be charged, that so many Rolls for some years past have been made up without it: Nay, all the other Rolls following are nonsensically titled, if such a Roll be not filed before them; For then follow the other *Filizer's* Rolls, and then after them the Prothonotary or chief Clerks Rolls, all with this Title upon them, *Adbuc de Termino*, &c. T. &c. whereas if this *Rotulo primo* be not filed, there is no Term at all appears unto which the *Adbuc* can have any relation. And somerimes in that King's Reign they have been filed promiscuously one among another, but still the *Filizer's* Rolls have been filed

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first,

first. But to return to the proof (omitting the entring of Proceſs or Writs upon originals, for that is allowed to be their due of all hands.)

- It appears in that Term (omitting alſo, for brevity ſake, the names of the Plaintiffs and Defendants, and their Attornies, and the nature of the Action) *in rotulis* 6. 9. 23. 44. 45. 58. 65. that ſeveral *Filizers* of ſeveral Counties, entred ſeveral Iſſues, and their names are upon the bottom of each Roll; and in *Mich. 2. ejusdem* the like, *in rotulis* 10. 14. 16. 18. And in the Reign of *Edward* the Fourth, *in Mich. 4. ejusdem Regis in Rotulis* 18. 57. 60. 68. the like Entries, and *in Paſchæ 5. ejusdem Regis*, the Rolls not being numbred, but the *Filizers* names at the bottom, there are ſeveral Iſſues entred; and as for the Reign of *Edward* the Fifth it being not three months long, and the Reign of *Richard* the Third not three years long, and very troubleſome, they were in this ſearch wholly omitted. In *Hilary 2. Henrici 7.* Rolls not numbred, ſeveral Iſſues entred; *Mich. 3. Henrici 8. rotulis* 43. 49. 54. the like both as to Iſſues and Judgments by *nichil dicit*, *in Paſchæ 23. & 24. ejusdem Regis*, the like in both; *Paſchæ 24. & 25. ejusdem*,
- An. Ed. 4.
- An. Ed. 5.
- An. R. 3.
- An. H. 7.
- An. H. 8.

dem, and *Paschæ* 25. & 26. and *Paschæ*
 26. & 27. and *Paschæ* 27. & 28. the
 like in all these Terms; Rolls not num-
 bred, but are to be found filed at the
 beginning of each Term; and in *Hila-*
ry 36. *ejusdem Regis*, *rotulo* 14. is the
 Entry of an Outlawry in an Appeal of
 Murther; and *Paschæ* 37. an Issue, and
 Judgment after a Verdict. And in *Hi-*
lary 1 & 2 of *Edward* the Sixth, *rotu-* An. Ed. 6.
lis 2. 3. 12. & *aliis rotulis* the like Is-
 sues; in *Trin.* 7. *ejusdem*, *rotulis* 2. 8.
 11. the like; *usque rotulum* 20. In *Trin.*
 1 *Mariæ*, *rot.* 10. 12. 13. 15. and di- An. Mariæ.
 vers other Rolls the like. In *Paschæ*
 1. & 2. *ejusdem*, several Issues, *Trin.*
prox. the like, *Mich. prox rot.* 6. 7. 8.
 and other Rolls not numbred, the like
 and Judgments; *Hilary* 1. & 2. the
 like, in *rotulis* 13. & 16. and in *Mich.*
 the 26 and 27 of *Queen Elizabeth*, *ro-* An. Elizab.
tulis 1. 2. 4. 16. 18. 19. and others not
 numbred, there are two Appeals of
 Murther and one of Robbery, and se-
 veral Issues and special Pleadings; In
Mich. 36. & 37. the like as to Issues.
 In *Paschæ* 44. *rotulo* 10. a *Quare Im-*
pediit, between the Queen and the Bi-
 shop of *Hereford*. And in *Paschæ*,
 5 *Jacobi*, Roll not numbred, there is An. Jacobi.
 an Indenture entred, by *Howard* a Fi-
 lizer

lizer upon his own Roll; in *Trin.* 7. an Issue, the Roll not numbred; in *Hil.* 9. *Mich.* 12. *Hil.* 12. *Trin.* 13. *Hil.* 13. the like Issues and Judgments by *Nil dicit* and *Non sum informat.* But all these Kings and Queens Reigns have not been gradually searched in every Year and Term, for it would have been too great a labour, but onely some few, to shew that there were no Times in which the *Filizers* did discontinue entering Issues and other Entries on their own Rolls, as hath been unjustly reported of them. But now, because the later Precedents may be thought the best proof (the former being looked upon by some persons it may be as obsolete by reason of their antiquity) these Years following of King *James* have been carefully and with great labour and pains searched in order year by year; It appears then in *Paschæ* 15. *ejusdem Regis*, one *Wythe*, a *Filizer* enters an Appeal of Murther, and in *Trin.* 15. a Judgment by default, and a Writ of Enquiry of Damages awarded. *Mich.* 16. one *Shaw* a *Filizer* enters an Issue, wherein one *Edmund Denny*, who was one of the Clerks to the then chief Clerk was Attorney for the Plaintiff, and afterwards was one of the Jury of Attor-

Attornies, that made the Presentment of the Fees, at the end of this Book : And in that Term also, *Walker* and *Williamson*, two *Filizers* do enter two appeals of Murther. In *Hilary* 16. the reversal of an Outlawry *pro defectu Proclamationis*, and divers Issues ; *Trin.* 17. the like reversal of an Outlawry and divers Issues, one of them in Replevin, and Judgment thereupon by *Percival* a *Filizer*, and several Judgments by default ; In one of which, one *Tetlow* was Attorney for the Plaintiff, and in another, one *Tippet*, and in others, one *Harborn* and one *Bunce* were Attornies for the Defendants ; all which four last Attornies were four of them also that made the Presentment hereafter mentioned. In *Mich.* 17. *nil dic. in cas.* In *Hilary* 17. *Scire facias*, and Judgment in Replevin, and several Issues ; In *Paschæ* 18. Special Plea and Issue thereupon, and *nil dicit.* in Replevin upon a Writ of Second deliverance ; *Trin.* 18. several Issues and a Default, *Mich.* 18. three Defaults ; *Hil.* 18. two Issues and two Defaults ; *Trin.* 19. the like ; *Hil.* 19. two *nichil dicit*s and Writs of Enquiry awarded ; *Paschæ* 20. Special Plea and Demurrer ; *Trin.* 20. several Issues ; *Mich. prox.* the like,

and *Hil. prox.* one *Dodd*, a *Filizer*, enters a writ of Right, and other *Filizers* several other Entries, of Issues and Judgments in *Trin. 21. Hil. prox.* and *Trin. 22.* the like, *Mich. 22.* one *Seaman* a *Filizer*, enters the Reversal of an Outlawry for the insufficient return of an Exigent, and to winde up this King's Reign in *Hil. prox. Edgar*, *Filizer* of *London*, so soon as he was Sworn, enters an Issue wherein one *William Jumper* was Attorney for the Plaintiff, who was also one of those Attornies that made the said presentment. And now we are come to the Reign of *Charles* the First of ever blessed Memory; and because some as I said before look upon the latest precedents to be the best evidence, I beg leave to be more prolix in this King's Reign than in the former, for these were all searched likewise gradually; Some Terms having no such Entries, I have here omitted. In *Trin. 2. & Mich. prox. ejusdem Regis* there are divers Issues and Defaults entered, and also the Reversal of an Outlawry, In *Paschæ 3.* the said *Edgar* enters four Issues in *London*, *Hil. 3. & Paschæ 4.* the like by other *Filizers*, *Trin. prox.* several Issues and Judgments, and among them, the said *Edgar* enters

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ters an Issue by Bill after an Imparlance, *Mich.* 4. the like Issues and Judgments by others, and one *Jumper* aforesaid, *Att. pro Quer.* in one of them; nay in *Hilary* 4. the said *Edgar* enters other two Issues by Bill, (a thing which the now *Filizers* of this Court do not in the least pretend unto,) but it seems he thought it was as lawfull and as much his right to enter by Bill, as it was for the then cheif Clerk or Prothonotary to enter by Writ, and was then an occasion of very great difference between that *Filizer* on the behalf of all the other *Filizers* and the then cheif Clerk or Prothonotary who had entred by Writ : And upon good ground it is believed that the presentment of the Fees hereafter mentioned did settle the matter between them, being (as is supposed) procured upon the Petition of the then *Filizers* to his then Majesty reciting the former narrative, who was thereupon pleased in a short time after to grant his Commission to inspect into all the Fees of all the Offices both in this Court and all other his Courts of Common-Law in *England* and *Wales*, and to settle the same, but after what manner the said difference was settled between the then *Filizers* and the then
cheif

cheif Clerk is not known, but it seems it was not so settled as to take away the right of the *Filizers* to enter Issues on their own Rolls, (as by some hath been most falsely affirmed) For that they did still continue on to enter by Writ, but not by Bill as may appear by *Paschæ 5.* Issue in Ejectment, verdict and Judgment entred by *Fisher*, *Filizer* of *Dorset-shire*, in *Trin. 5.* the aforesaid *Edgar* entred an Issue in *London*, and *Clerk*, *Filizer* of *Norf.* entred two Issues, *Hil. 5.* *Gasnold*, *Filizer* of *Suf.* entred a cause against two Defendants wherein the one pleaded and the other suffered Judgment, *Paschæ 6. nil dic.* in Ejectment by the said *Edgar* and an Issue wherein *John Woodward* a very able Clerk of the then cheif Clerk, was Attorney for the Plaintiff, one very well known to some of that name now in this Court, and the said *Clerk* was the *Filizer*, this I mention more at large (and many other I might) to shew that the *Filizer* did not enter it as he was Attorney in the cause himself, but for another Attorney, but if he had, I think it had argued no less a right in himself to enter, than if he had entred it for another Attorney, and a multitude of those former Entries I have already

ready mentioned as well as those I am yet to set down, are made for other persons Attornies for the Plaintiffs, as may appear by the Records themselves. In *Trin.* 6. divers Issues and Judgments, and *Scir. fac. sur. Judic. in replevin. Mich.* 6. *Trin.* 7. *Mich.* 7. the like, wherein *Merefield* the then *Filizer* of *London* enters an Issue, for one *Creme*, (one of the Clerks of the then cheif Clerk) Plaintiff, who did not certainly enter it with the *Filizer* to have his privilege allowed him, for that he might without doubt have had if he had entred it with his own Master the cheif Clerk, but questionless he did enter it with the *Filizer*, for that he thought in his Judgment he ought so to do, the said *Filizer* having made out all the former process; and also in that Term the *Filizer* of *Lincoln* enters an Issue upon a special Plea, Verdict and Judgment, *Hilary* 7. the like by *Merefield* and others, *Paschæ* 8. an Issue, Defalt, and a Demurrer in three several causes, *Trin. Mich.* and *Hil. prox.* the like, *Paschæ* 9. the said *Merefield* enters an Issue wherein *Hatton Berners* was Attorney for the Plaintiff, and Clerk to the cheif Clerk and another wherein the aforesaid *Jumper* is Attorney

ney for the Plaintiff, who as is said before was one of those Attornies that made the presentment, *Trin.* 9. several *Filizers* entred in all 22. Rolls, and in them 23 Issues, general and special; in some of which, *Gilbert Eveleigh* was Attorney for the Plaintiff, one that was heretofore well known unto the now Secondary, he being his Enttring Clerk, and filed his Rolls for him as I am informed, *Mich.* 9. the like *Hil.* 9. several *Filizers* had 27 Rolls, entered several Issues and Judgments by default, and one Issue is in a *Quare Impedit* between *Noy* the Attorney General, and the Bishop of *Lincoln*, So that you see here the *Filizers* are not stinted to 20 Rolls, as now it is usual to leave so many for them, the cheif Clerk's Rolls beginning commonly at 20, but they may go farther if their number of causes do require it. *Paschæ* 10. *Trin.* and *Mich. prox.* several Issues, and *Hil. prox.* 13. Issues and Judgments by default, and in *Trin.* 11. and *Mich.* and *Hilary* next, the like, In *Paschæ* 12. two Issues one wherein the aforesaid *Merefield* enters an Issue in *London*, wherein one *George Brome* was Attorney for the Plaintiff, who as I have been informed was soon after that Secondary of the Court,

Court, and certainly he well understood what he did, or else he was not fit to be in that place, who was to give directions to others in *Trin.* 12. *Mich.* and *Hil. prox. Paschæ* 13. *Trin. Mich.* and *Hilary prox.* the like, in one of which, to wit in *Hil.* 12. the aforesaid *John Woodward* was Attorney for the Plaintiff, In *Paschæ* 14. *Rotulo* 7. a replevin *special. plita. Judicium sur. inde pro le avowant & breve de Inquir. agard. & Rotulo* 12. *Williamson* a *Filizer* enters an Appeal *de mort.* *Trin. prox.* six Rolls of *Imparances*, *Mich.* and *Hilary prox.* several Issues entred by the said *Merefield* and one *Sommers* then *Filizer* of *Middlesex* and other *Filizers*, and *Imparances* and Judgments by default, and in some of those Issues, the Plaintiffs themselves were Clerks to the then cheif Clerk, *Paschæ* 15. the like, *Trin.* 15. the like in 14 several Issues and Judgments by default, and in one of the defaults upon which there is a Writ of Inquiry awarded, and Judgment thereupon, the aforesaid *John Woodward* was Attorney for the Plaintiff, and *Woodward Senior Filizer*, and there also one *Rott* a *Filizer* enters process in appeal *de mort.* *Mich.* and *Hil. prox.* the like as to Issues and Judgments by default,

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one wherein *Harman Atwood* one of the Clerks to the then cheif Clerk, was Attorney for the Plaintiff, and as able a Clerk as any was in his time, in *Paschæ* 16. *Rotulo* 19. the said *Meresfield* enters as *Filizer* of *London*, an Issue in *London* in ejectment, inter *Lloyd & Hide*, verdict and Judgment, *Cecill* Attorney for the Plaintiff, and *Antrobus* (one of the Attorneys that made the said presentment) for the Defendant who afterwards brought a Writ of Errour in *Parliament*, and the Judgment there affirmed, and the *affirmetur* entred also on the said Issue Roll, *Trin. Mich.* and *Hil.* the like as to Issues and defaults, *Paschæ* 17. *Trin. prox.* the like, and in the last no less than 13, Issues and one default, in *Mich. prox.* the like, in *Hil. prox.* *Rotulo* 20. the said *Meresfield* entred an Issue int. *Hunt* one of the Clerks to the then cheif Clerk, &c. Plaintiff and *Brough* Defendant, *breve erroris super inde in Parlamento & Judicium affirmetur*, entred also, The *Filizers* Rolls then reached there to number 24, *Paschæ* 19. & *Trin. prox.* the like as to Issues and Judgments by *nil dicit Hil. prox.* Issue in *Essex*, and tryed at the Bar and Judgment entred, *Paschæ* 21. *Trin. Mich.* and *Hil. prox.* the like

as to Issues and defaults, and in the afore-
 said *Trin.* Term a *Scire facias* and Judg-
 ment upon it, *Paschæ* 22. the said *Me-
 resfield*, *Filizer* entred a Judgment in
 case in *London*, inter *Ingram* and *Inning*
Hewson Attorney *pro Quer.* and *Greg.*
pro Defendant, two very able Clerks un-
 to the then cheif Clerk, and *breve de*
errore in Parlamento super inde &
affirmetur, entred likewise, *Trin.* and
Hil. prox. several Issues *Paschæ* 23. *Ro-*
tula 19. the said *Meresfield* entred an Is-
 sue in *London* inter *Finch & Wallis*, *Hod-*
desdon Attorney *pro Quer.* who was af-
 terwards Secondary of the Court, and
 certainly knew what he did, *Trin. prox.*
 and *Trin.* 24. the like as to Issues and
 defaults, in the last of which *Rotula* 16.
Wooddeson Filizer of *Torkshire* enters
 two Issues, wherein one *Henry Thomp-*
son was Attorney for the Plaintiffs, and
 one *William Livesay* for the Defendants,
 I cannot say it was the now Secondary,
 although I never heard of any other a-
 bout that time of that name, but I pre-
 sume it was not he, because I believe he
 would have informed the Attorney for
 the Plaintiff that he ought not have en-
 tred it on the *Filizer's* Roll, and in *Mich.*
 and *Hil.* 24. divers Issues and defaults.

And now having passed through
 the

An. Dom.
1649.

the Reign of that glorious Martyr , let us see what was done and practised in this case in the troublesome times of War, Anarchy and Confusion when all things were in disorder and turned upside down. It appears that in *Trin.* 1649. and *Hil.* following, there were the like Issues and defaults entred , In *Paschæ* 1651. *Rotulo* 19. the same *Meresfield*, enters a default for one *Holworthy*, Plaintiff who was one of the Clerks to the then cheif Clerk , this was the Term in which the Law suffered so great a change as to have all the proceedings of it in *English* , yet then it suffered no mutation as to the entring with the *Filizer*, so in *Trin.* Term following, *Ironmonger*, *Filizer* of *Bedfordshire*, entred two Issues, wherein one *Blincoe* was Attorney for the Plaintiffs, he was one of the Clerks of the then cheif Clerk, and kept the Files of Writs in the then *Kings-Bench-Office*. In *Hil.* 1651. *Rotulo* 19. *T. Stone* a *Filizer* inrolls an Indenture *inter Whittle* and *Whittle*, and the *Filizer* of *Essex* likewise an Issue in *ejectione firmæ*, *inter Wilks* and *Hil. Brickwood* Attorney for the Plaintiff, and *William Livesay* for the Defendant , whether this was the now Secondary of the Court or not
I know

I know not. *Trin.* 1652. the like, *inter Garret and Parker*, *An. Baker* Attorney for the Plaintiff, a very able Clerk, and one of the Clerks to the now cheif Clerk, and is yet living, and in *Hil. prox.* *Rotulo* 16. the aforesaid *Wooddeson* entred a Judgment in replevin with *Retorn. habend. & a Cap. in Withernam*, In *Paschæ* 1655. *Rotulo* 18. an Issue and *Rotulo* 19. another Indenture inrolled, In *Hil.* next, *Rotulo* 12. *F. Gregg*, *Filizer of Derbyshire* (and at the same time one of the Clerks to the now cheif Clerk) enters special pleadings in replevin, *non prof. super inde cum retorn. habend. Paschæ* 1656. Roll 17. another Indenture *Hilary* 1656, Rolls, 7. 8. 9. 10. 11. several Issues, and a default, *Paschæ* 1657. and *Trin.* following the like, *Paschæ* 1658. *Rotulo* 19. the said *Merefield* entred an Issue, wherein *John Brewster* was Attorney for the Plaintiff, and now living, and a Clerk to the now cheif Clerk, and one *Coxe* for the Defendant, it was in *London*; *Non assumptit inter Hardman and Hayes*, *Trin.* & *Mich. prox.* the like, *Hil.* 1658. several Issues, one that the said *Merefield* entred for one *Peter Naylor* Attorney for the Plaintiff, and Clerk then to the then and now cheif Clerk, as able and

E

knowing

knowing a man in Clerkship as any of his time, fit to have made a Secondary of, and after the Plea, a *relicta verificatione* signed by the then Secondary, *Trin.* 1659. Roll 12. 13. 14. an Issue and two Indentures, *Mich. prox.* Roll. 13. 14. 15. three Indentures entered. And now we are come to the times of the happy restauration of his now most Sacred Majesty, let us see therefore what hath been the practice lately for these twenty years and upwards last past. It appears in *Mich.* 12. *Caroli Secundi Rotulo* 19. that an Indenture is there by Stone the Filizer entred, *Paschæ* 14. *Rotulo* 18. *Sommers Filizer* of *Middlesex* enters a special Impar lance for *Thomas Jekill*, Attorney for the Plaintiff and late Secondary of this Court, *Paschæ* 21. another *Filizer* enters the like, *Hil.* 21. § 22. another Indenture, *Paschæ* 23. *Rotulo* 16. *Judicium* in replevin, *cum retorn. habend. averia elongat.* § *Cap. in Withernam agard*, *Hil.* 25. § 26. *Rotulis* 18. § 19. default in case, *Scire facias super Utlagar*, and an Indenture, *Trin.* 26. *Rotulo* 19. *Paschæ* 28. *Rotulo* 19. *Hil.* 28. § 29. three several Indentures in each Term one, *Mich.* 29. *Rotulo* 19. *Nihil dicit in casu*, *Hil.* 29. § 30. *Rotulo* 19.

Ann. Car.
Secundi.

an

an Issue, *Paschæ* 30. *Rotulo* 18. & 19.
 an Issue & default. *Hil.* 29. & 30. *Rotulo*
 19. an Issue, *In Paschæ* 30. *Rotulo* 18. &
 19. an Issue and default, *Hilary* 30. &
 31. *Rotulis* 10. 18. 19. another Inden-
 ture, *nihil dicit & non assumpsit, Mich.*
 32. *Rotulo* 17. *breve erroris sur. Judici-*
um in regno Hiberniæ & Judicium affir-
metur intrat. & *Rotulis* 18. & 19. two
 Indentures, *Paschæ* 33. *Rotulo* 19. ano-
 ther Indenture, *Trin.* 33. *Rotulis* 18 &
 19. several Issues and Judgments, *Mich.*
 33. *Rotulis* 18. 19. 20. two Indentures
 and a *Distring.* awarded against a Peer,
Hil. 33 & 34. *Rotulis* 12. 13. 14. 15. 16.
 several Issues and defaults, and *Rotulis*
 17 & 19. two Indentures, *Paschæ* 34.
Rotulo 18. an Issue, *Trin.* 34. *Rotulis* 18
 & 19. an Issue and a default, and in *Mich.*
 34. *Rotulis* 18 & 19. the like, and in
Hil. 34 & 35. *Rotulis* 12. 13. 14. 15. 16.
 17. 18 & 19. the like as to Issues and
 defaults, together also with two Inden-
 tures.

And now I do heartily beg the Rea-
 der's pardon, that I have tired his pati-
 ence with so many particular proofs in
 this nature, and truly I would not have
 done it but have saved my self and him
 much labour herein, but that it lay up-
 on me to make out this matter; In

which he may remember there are several Appeals of Murther, Robbery, and Mayhm said to be entred, which puts me now also in mind of appealing to him, and not to him onely, but unto all that shall reade this Treatise, whether they think the *Filizers* of this Court have not had a right to enter Issues and other proceedings grounded upon Original Writs, if so, when, where and how did they loose it? was it either by Act of *Parliament*, or by any other due course of Law? and he that can tell me this, *erit mihi magnus Apollo*. And thus much (if not too much) I hope may suffice, to prove that the *Filizers* have a right to enter Issues brought by Original Writ, and other proceedings thereupon on their own Rolls as *Filizers*.

Some

*Some directions in the way of practice by Sixthly:
Original Writ in this Court.*

AND first, to proceed either to the arrest or to the Outlawry, you may remember it hath been said before, that this Court proceeds in its practice three several ways; that is to say, by Original Writ, by Bill, and by attachment of Privilege; and in that by Writ, this Court hath not used to proceed in some sort of Actions, that is to say, Debt, Detinue, Account and Covenant; but in all other personal Actions it doth. And as is elsewhere said, The Original Writ issueth out of the *High-court of Chancery*, to obtain which, the Attorney for the Plaintiff must first consider the nature of his Clients cause of action, and then draw up a *precipe* (as it is commonly called) of the whole matter in the nature of a Count or Declaration; and therein he must be sure to set forth the Defendants true Christian Name and Surname, together with the Addition both of his Degree and Mystery as to his Profession and the place where conversant; for if his Addition be omitted, all the

Proceedings are void by the Statute of
 Additions made in *primo Henrici Quin-*
ti, cap. 5. by which it is ordained and
 established, "That in every Original
 "Writ of Actions Personals, Appeals
 "and Indictments, and in which the
 "Exigent shall be awarded, in the
 "names of the Defendants in such
 "Writs Original, Appeals and Indict-
 "ments, Additions shall be made of
 "their Estate or Degree, or Mystery,
 "and of the Towns, or Hamlets or
 "Places and Counties of the which
 "they were or be, or in which they be
 "or were conversant; And if by pro-
 "cess upon the said Original Writs,
 "Appeals or Indictments, in the which
 "the said Additions be omitted, any Ut-
 "lagaries be pronounced, that they be
 "void, frustrate, and holden for none;
 "And that before the Utlagaries pro-
 "nounced, the said Writs and Indict-
 "ments shall be abated by the excep-
 "tion of the Party, wherein the same,
 "the said Additions be omitted, Provi-
 "ded always that though the said
 "Writs of Additions Personals be not
 "according to the Records and Deeds
 "by the surplusage of the Additions
 "aforesaid, that for that cause they be
 "not abated. And that the Clerks of
 "the

“the Chancery, under whose names
 “such Writs shall go forth written,
 “shall not leave out, or make omission
 “of the said Additions as is aforesaid,
 “upon pain to be punished, and to
 “make a Fine to the King by the Dis-
 “cretion of the Chancellour. These
 are the very words of the Statute; So
 that you see hereby, that (*debile funda-
 mentum fallit opus*) which ought to be
 the Attorney's care to prevent, and he
 must also take care to draw up his
Precipe so in substance as he will stand
 to it; for after the Original is sealed,
 there is no altering of it, without new
 sealing it again, and if it be in Trespas,
 the form is thus;

Si A. B. fec. &c. tunc pon. C. D. nu- London, vel;
per de, &c. gen. de placito quare vi & Middlesex.
armis Clm. & Doum. (si in London)
Clm. (si in Middl.) ipsius A. apud, &c.
fregit, Et alia enormia ei intulit ad In Tufgr.
grave dampnum ipsius A. & contra pacem
nostram, &c.

Ret. in banco Regis, à die Paschæ in
15 dies ubicunque, &c.

E. F. Att. pro Quer.

Si, &c. ut antea, usque de placito qua- Middlesex.
re vi & armis in ipsum A. apud, &c. in-
 E 4 *sult.*

In rufgr. & insult. *sult. fec. & ipsum verberavit, vulneravit & maletracavit, Ita quod de vita ejus desperabatur, Et alia, &c. ut antea; Ret. ut antea,*

Idem Att.

Middlesex. *Si, &c. ut antea usque de placito quare vi & armis unum Mesuag. & viginti acras terræ cum pertin. in L. que G. H. præfat. A. B. dimisit ad Terminum, qui nondum præterit intravit & ipsum à firma sua præd. ejecit, & alia enormia, &c. ad grave dampnum, &c. Et contra pacem nostram, &c.*

Ret. ut antea.

Idem Att.

London II. *Si, &c. ut antea, usque de placito quare cum, &c. & sic recite le tout cause del action usque ad dampnum ipsius A. B. Centum Librar. ut dicit, &c.*

Ret. ut antea.

Idem Att.

Note, that upon such Originals as are in Case, where the Damages do exceed Forty pounds, there is a certain Fine due for the same to be paid to the King; which is always received by the Cursitor, as follows, that is to say,

From

	li.	s.	d.	
From 40 li. to 100 Marks	00	06	08	<i>The King's</i>
From 100 Marks to 100 li.	00	10	00	<i>Majesty's</i>
From 100 to 200 Marks	00	13	04	<i>Fines upon O.</i>
From 133 li. 06 s. 8 d. to 166 li. 13 s. 04 d.	00	16	08	<i>iginal Writs,</i>
From 166 li. 13 s. 04 d. to 200 li.	01	00	00	
And for every 100 Marks more	00	06	08	
And for every 100 li. more	00	10	00	

The Original Writ is the Warrant for the suing out of the *Capias*, and the return of the Original is usually the Teste of the *Capias*, except the return be upon the *Essoin-day* before any Term, and then the *Capias* is Teste the first day of that Term; because it cannot be Teste out of Term (although in Law to some purposes the Term is begun on the *Essoin-day*.) And the common course is now (to regain time) as it is used in the *High-court of Chancery*, to take out a *Subpœna* first, and then after to bring in the Bill. So here to take out the *Capias* first, and bespeak your *Precipe*, and sue out the Original afterwards, although it be supposed in Law to be sued out before; for that the Original cannot be so speedily sued out at all times in the vacation time, but only when the publick Seals are open in Chancery, except you will get a private Seal, which you may have, for indeed the *High-court of Chancery* is
said

said to be *Officina Justitiæ semper aperta*, and therefore if there be a *Precipe*, as it is before called, left with the Cur-
 sitor, and the Original made by that *Precipe*, and sealed before the return of the *Capias*, it hath usually been taken to be good enough to warrant such *Capias*; and if such *Precipe* be delivered in to the Curitor within the first week of any Term, he will (if desired) make the Original returnable the first return of the precedent Term, but take care to lay it so as the cause of action may arise before the date of it. And when the Original is sealed, the Sheriff of the County where the Action is laid must return it thus; *Pleg. de prof. Johannes Doo. Richardus Roo. Infra nominat. C.D. nichil habet in balliva mea per quod attach. potest: Respons. E.F. Ar. Vic.* And the return of the *Capias* must be always fifteen days or more after the return of the Original, and so it must be likewise in all the other Pro-
 cess, between the Test and return of each Writ; and this in all Proceedings as well to the Outlawry as to the Arrest upon the *Capias*, except in one return onely, of in *Cro. Animar.* in every *Michaelmas* Term; which is made good by the Statute of 17 *Car. primi, Cap. 6.*
 Which

Which saith, " That all Writs and Pro-
 " cess in personal Actions hereafter to
 " be made out of any of his Majesty's
 " Courts at *Westminster*, and having day
 " from *tres Mich.* untill *Cro. Animar.*
 " shall be good and effectual in Law,
 " notwithstanding there be not fifteen
 " days betwixt the said *quarto die* of the
 " said *tres Septimanas sancti Mich.* and
 " the days of *Essoin* of *Cro. Animar.* any
 " Law, Statute, or usage to the con-
 " trary heretofore notwithstanding ;
 And if the Action be laid in one
 County, and the Defendant live in
 another, upon a *non est inventus* retur-
 ned by the Sheriff of that County upon
 the *Capias*, the *Filizer*. thereof will
 make you out a *Testat. Capias* into any
 other County, and if you proceed to
 the Outlawry, the *Capias alias & plur.*
 must be thus returned ; *Infra nominat.*
C. D. non est inventus in balliva mea ;
Respons. E. F. Ar. Vic. For the drawing
 of which *Precipe* to the Cursitor, the
 Plaintiff's Attorney, as in other Cases,
 takes 4 *d. per sheet*, and after the *Plur.*
 is so returned, he must carry it to the
Filizer, and he will make out an *Exi-*
gent and Proclamation, and then deli-
 ver them to the respective Sheriffs ;
and at the time they are returnable,
 (being

(being both of one teste and return, as the Statute requires) he must call for the returns of them; and if there be not Hustings in *London*, or County Court-days in the Country enough between the teste and return of the Exigent, as sometimes it may happen; Then he must carry the Exigent unto the *Filizer*, and he will make out a writ of *Allocat.* for the remaining Hustings or County-Court days, and if upon the return day of it, or upon the Exigent that went before it, or upon any special *Capias* to arrest, or any other Writ, the Defendant do appear; then the Plaintiffs Attorney declares, and for drawing his Declaration, he taketh of his Clyent, 8 *d. per sheet*, and maketh a Copy thereof, and delivereth the same to the Attorney for the Defendant, who payeth him 4 *d. per sheet* for such Copy, and the same Term he declareth in, he calleth for a Plea, after that he hath given rules for answer (which have usually heretofore been given by the *Filizer* of that County where the action is laid) and then draweth up his Issue either general or special, and maketh up the Paper-Book himself (it being by Original) and be it either Issue or Demurrer, he delivers a Copy of it
to

to the Defendant's Attorney, and taketh of him 4 *d.* the sheet for the same, and if an Issue, he giveth notice of Tryall, (as in other cases by Bill) then he taketh out from the said *Filizer* a *Venire facias*, *Distring. Jur.* and *Subpœna*, and then sealeth the Record of *Nisi prius* with the *Custos brevium*, if it be not in *Middlesex*, if so, then with the Lord Cheif Justice, and some time before the day in Banck, which is always the Essoin-day of the next Term after any Assises if the action lie in the Country, or if in *London* or *Middlesex*, then before the next Essoin-day after the Tryall, he bringeth the Issue to the said *Filizer* to be entred upon his Rolls, and in the aforesaid *Venire facias* and *Distring.* there need not to be 15 days (as in other proceſs before Issue joyned) between the *Teste* and return of each Writ, and this appears by the Statute before mentioned made in the 13th. year of his now Majestye's Reign; The words of which Statute (amongst other matters) are these. " And whereas
 " very many Suits commenced by O-
 " riginal Writs, have been protracted
 " and long delayed from Judgment and
 " Execution, by reason of the necessity
 " of having fifteen days at the least, be-
 " tween

(being both of one teste and return, as the Statute requires) he must call for the returns of them; and if there be not Hustings in *London*, or County Court-days in the Country enough between the teste and return of the Exigent, as sometimes it may happen; Then he must carry the Exigent unto the *Filizer*, and he will make out a writ of *Allocat.* for the remaining Hustings or County-Court days, and if upon the return day of it, or upon the Exigent that went before it, or upon any special *Capias* to arrest, or any other Writ, the Defendant do appear; then the Plaintiffs Attorney declares, and for drawing his Declaration, he taketh of his Clyent, 8 *d. per sheet*, and maketh a Copy thereof, and delivereth the same to the Attorney for the Defendant, who payeth him 4 *d. per sheet* for such Copy, and the same Term he declareth in, he calleth for a Plea, after that he hath given rules for answer (which have usually heretofore been given by the *Filizer* of that County where the action is laid) and then draweth up his Issue either general or special, and maketh up the Paper-Book himself (it being by Original) and be it either Issue or Demurrer, he delivers a Copy of it
to

to the Defendant's Attorney, and taketh of him 4 *d.* the sheet for the same, and if an Issue, he giveth notice of Tryall, (as in other cases by Bill) then he taketh out from the said *Filizer* a *Venire facias*, *Distring. Jur.* and *Subpœna*, and then sealeth the Record of *Nisi prius* with the *Custos brevium*, if it be not in *Middlesex*, if so, then with the Lord Cheif Justice, and some time before the day in Banck, which is always the Essoin-day of the next Term after any Assises if the action lie in the Country, or if in *London* or *Middlesex*, then before the next Essoin-day after the Tryall, he bringeth the Issue to the said *Filizer* to be entred upon his Rolls, and in the aforesaid *Venire facias* and *Distring.* there need not to be 15 days (as in other process before Issue joyned) between the *Teste* and return of each Writ, and this appears by the Statute before mentioned made in the 13th. year of his now Majestye's Reign; The words of which Statute (amongst other matters) are these. " And whereas
 " very many Suits commenced by Original Writs, have been protracted
 " and long delayed from Judgment and
 " Execution, by reason of the necessity
 " of having fifteen days at the least, between
 " between

This Court of
King's-Bench
being before
mentioned in
this Statute.

“tween the days of the *Teste*, and the
 “days of Return of Writs now used in
 “personal Actions, and also in Actions
 “of *Ejectione firmæ*, for Lands and Te-
 “nements; For remedy thereof, and
 “for the more easie expediting Trials,
 “and the better and more speedy exe-
 “cuting of Judgments for the time to
 “come, Be it farther enacted by the
 “Authority aforesaid, That in all Ac-
 “tions of Debt, and all other personal
 “Actions whatsoever, and also in all
 “Actions of *Ejectione firmæ*, for Lands
 “or Tenements, now depending, or
 “which at any time hereafter shall be
 “depending by Original Writ in either
 “of his Majesty's Courts aforesaid; af-
 “ter any Issue therein joined to be tri-
 “ed by a Jury, and also after any Judg-
 “ment had or obtained, or to be had
 “or obtained in either of the Courts
 “aforesaid, there shall not need to be
 “fifteen days between the *Teste*-day,
 “and the day of Return of any Writ or
 “Writs of *Venire facias*, *habeas Corpora*
 “*Jurator*. or *distring. Jurator*. Writs of
 “*Fieri facias*, or Writs of *Capias ad sa-*
 “*tisfaciend.* and that the want of fifteen
 “days between the *Teste*-day and the
 “day of Return of any such Writ, shall
 “not be, nor shall be assigned, taken
 “or

" or adjudged to be any matter or cause
 " of Errour, any Law, Custome, Sta-
 " tute, Course or Usage to the contra-
 " ry thereof in anywise notwithstan-
 " ding; Provided nevertheless, that this
 " Act, nor any thing therein contained,
 " shall not extend or be construed to
 " extend to any Writ of *Capias*, where-
 " on a Writ of Exigent after Judgment
 " is to be awarded, nor to *Capias ad*
 " *satisfaciend.* against the Defendant, in
 " order to make any Bail liable, but
 " that the same continue, and be as
 " if this Act had never been made.

*A Proviso not
 to extend to a
 Capias and
 Exigent there-
 upon after
 Judgment, or
 to a Capias
 ad satisf. to
 make the Bail
 liable.*

But to return to our former matter,
 when the Attorney for the Plaintiff
 hath obtained a verdict, and given
 rules, and signed his Judgment, he
 then entreth it up to the *Filizer's* Issue-
 roll as aforesaid, and taketh for his Fees
 the like Fees as by Bill; But if the De-
 fendant appear not at all, but suffer
 himself to be returned outlawed upon
 the Exigent or *Allocat*, then he bringeth
 the Exigent to the *Filizer* that made
 it out, or else he fileth such Exigent
 himself with the *Custos brevium* of this
 Court; and then getteth a Certificate
 from him that it is filed, and bringeth
 it unto the *Filizer*, and then he will
 make him out either a general or spe-
 cial

cial *Capias utlagat*. And this is all at present that may be thought necessary in this matter by way of direction; Onely this, let him take notice, that *Hilary* Term is not so convenient a Term to begin to sue to the Outlawry in as other Terms are, for the Defendant will not be outlawed then under four Terms, although the Action be laid in *London*, because of the short vacation that is between *Easter* and *Trinity* Term, and in any other he will in three, if the Original be returnable the first return of the Term. Also to observe in his Writs (if he make them himself and carry them to the *Filizer* to be signed) that as a man is always said to be *utlagat*. outlawed; So a Woman is always said to be *Waviat*. waved, that is to say, *derelicta*, left out or not regarded, because Women are not by the Law obliged to be sworn in Leets to the King as Men are. And now, for the testes and returns of his Process, he is hereby referred to a *Modus return. brevium*, placed toward the end of this Book. And farther let him observe, that if in an action of the Case, where the cause of action is at large set out, the damage be laid in the Writ of *Capias*, to arrest to Ten pounds, or
above,

above, his Client ought to have good Bail (but not so, if the Defendant appear upon the Exigent or *Allocat.* although it be laid 500 *li.* damage.) And if such Action be laid in *London*, the Defendant will be sooner outlawed in respect of the Hustings there, than in any County; for that they are held in less time than the County Courts are holden in; for there must be five Hustings returned upon the Exigents in *London*, and five County Court days in the Counties; at which the Defendant hath been called, and hath not appeared.

Also how to appear for the Defendant, either upon Arrest, or upon the Exigent, or upon the reversal of the Outlawry.

AS to the appearing upon the Arrest Appearance upon arrest. (if special Bail be required) it must be thus; The Defendants Attorney must come to the *Filizer*, where the Action is laid, and enter his special appearance, that is by giving in a note to him of the Bail, who they are, and where they live, and then the *Filizer* will go with him before some Judge of
F this

this Court, and put in the Bail before him, and then the Defendant's Attorney must give in a note of the Bail, and before what Judge put in, unto the Plaintiff's Attorney; and if he accepts of the Bail, he puts his hand to the Bail-piece that he doth so, and then he fileth it with the *Custos brevium* of this Court, and if the Plaintiff's Attorney excepteth against the Bail, the Defendant must get his Bail to justify themselves before the Judge, and yet if after that the Plaintiff is not satisfied with the Bail, the Defendant must either put in other Bail, or else justify the same upon oath in the Term-time in Court; and then the Plaintiff is bound to accept them. And as to the appearing on the Exigent there (as is said before) no Bail is to be given, but onely the Defendant is to enter his appearance with the *Filizer per Attorn. suum*, and then taking from him a *Supersedeas*, *Quia improvide*, suggesting such appearance in the Writ, which Writ he must deliver to the Sheriff.

Appearance to
the Exigent.

Appearance
after reversal.

And as to the appearing upon the reversal of the Outlawry, it is thus. The first thing the Defendants Attorney must doe, is, to come to the *Filizer* of the City or County where the Action

is laid, and know of him when the *Plur. Capias* was returnable, and then search the *Filizer's* Rolls of that Term, and there he will find the *Capias alias* and *plur. Exigent* and Proclamation awarded, together with the return of the *Exigent* to the *Quinto exact.* upon which the Defendant stands outlawed; of all which he must take a Copy from the Roll, and then come to the said *Filizer* to enter upon the said Roll by way of averment, a defect in the proceedings, either against the Statute of the one and thirtieth year of Queen *Elizabeth*, for want of a Proclamation, or otherwise as the case may require; and then he prepareth his Bail-piece ready, and bringeth the Bail into Court, together with the Defendant, and then causeth the bundle or file of Writs of Proclamations to be brought into Court, and by motion of Counsel at the Bar, alledging the want of a Proclamation; and upon due search of the said File by the Secondary of the Court, and none appearing to the Court to be filed, the Outlawry is reversed by the Court, which is always pronounced by the Seniour Judge of the Court, if he be present, if not, by the next; which reversal, together with the

names of such Bail who undertook that the Defendant shall appear to a new Original Writ to be brought by the Plaintiff within two Terms against the Defendant, and to satisfy the Condemnation, if he shall be convicted, is all to be entred by the said *Filizer* up to the Process of Outlawry before entred, for entring of which the *Filizer's* Fees are 4 *d.* the sheet. And the *Court of Common-Pleas* have used to make such Entries as may appear by certain Orders of that Court, made in the second year of *Charles* the First; The words (amongst others) are these, "And it is farther ordered, that all Reversals hereafter made shall be entred upon the same Roll where the Exigent is awarded, being the most proper and fittest place for the safety and quiet of all Persons outlawed, and their Executors to find the said Reversal in future times, and not upon other Terms and Rolls as is now used; Which also, by the several Precedents of Entries of Reversals before-mentioned, may appear to have been anciently the practice of this Court. And in these and the like Cases, the Defendants do in the *Common-Pleas* appear by Attorney; But in this Court the Defendant

Vide Praxis
utriusque
Banci, fol.
108. int.
alia.

fendant is obliged to appear in person
 with his Bail (except this Court upon
 motion give leave to the Defendant to
 reverse *per Attornatum.*) The reason
 may be presumed to be this, because
 upon all Outlawries in Criminal Causes
 in this Court, the Defendants have
 been heretofore, and now are obliged
 to appear in person to answer the con-
 tempts of the Law to the King, and
 thereby they were immediately taken
 into custody for such contempts, or
 otherwise disposed of at the discretion
 of the Court; and in every civil Cause
 likewise it is a great contempt indeed of
 the Law, for the Defendant not to ap-
 pear after so many several Writs as go
 out against him before he is outlawed.
 But yet a late Parliament thought the
 appearing in person so great a grievance
 to the Subject, that it did receive a de-
 bate in the *House of Commons* upon a
 Bill then brought in, but no Act passed
 thereupon for want of time, as is pre-
 sumed, and whether hereafter it may
 not be a matter fit to be farther deba-
 ted, I shall leave to the wisdom of the
 great Council of this Nation when as-
 sembled in Parliament. But to return, it
 may be such Defendant hath been obli-
 ged to appear in person out of that

high respect that ought to be given to the grandure of this Court (the King himself, as before is said, being supposed sitting there.) And to be outlawed formerly in the Reign of King *Alfred* (and untill a good while after the Conquest) for Felony, as my Lord *Coke* hath it in his *First Institutes*, *Cap. Villenage*, *Sect. 197. fol. 128. b.* was very dangerous; for such Persons might have been put to death by any man, as well as a Wolf, that hatefull Beast, might; For *utlagatus & waviata Capita gerunt Lupina*. But then saith he, no Man could have been outlawed, but for Felony; But you may see there how this Inhumanity was restrained and altered in the Reign of *Edward* the Third. And now our Laws are made more tender of life, though it be of such great Malefactours, that so they may be punished or discharged by the hand of the Law onely, which *nulli facit injuriam*; And although then none could be outlawed, but for Felony, yet, as he saith there, that afterwards in *Bracton's* time, and somewhat before, Proceſs of Outlawry was ordained to lie in all Actions that were *Quare vi & armis*, which *Bracton* calls *Delicta*, for there the King shall have a Fine; But
since,

since, saith he, by divers Statutes (speaking in general of such Proceedings, and not of any Court in particular) Process of Outlawry doth lie in Account, Debt, Detinue, Annuity, Covenant; *Action sur le Statute de 5 Rich. 2. Action sur le Case*, and in divers other Common or Civil Actions. But to go on, he saith farther in his Chapter of continual Claim, *Sect. 437*. That there may be other Causes of reversal, besides the want of a Proclamation, and that by plea for matters apparent, as in respect of a *Supersedeas variance*, or other matter apparent in the Record; And yet in these Cases (saith he) some hold, That in another Term, the Defendant is driven to his Writ of Errour: And farther, if the Defendant be arrested by a *Capias utlagat*. he ought not to be discharged out of custody without a *Supersedeas* for the same, as appears by the last mentioned Statute of the 13. of the now King, (the like certainly is requisite in case where his Goods or Chattels are taken) or else, if he be taken, and would reverse the Outlawry, then he may have a *Habeas corpus* to bring him into Court to reverse such Outlawry; But if all the Process to the

Outlawry be well returned, entred and filed, then there is no way to reverse the same but by Writ of Errour, which comes in the next place to be handled.

How to reverse an Outlawry by Writ of Errour.

IT hath been a received Opinion that no Writ of Errour lies returnable in this Court upon any Action brought by Original Writ in this Court, but that it must be returnable in the *High-court of Parliament*; but certainly that must be intended where Judgment is had and obtained upon such Action, for every Writ of Errour supposes a Judgment of the Court given, for the words in every such Writ are (*Si Judicium inde reddit. sit*) but in this case, where it is no Judgment of the Court, but of the Coroners of the County against the Defendant for his contempt, in not appearing upon the Exigent that he be outlawed, there this Court hath a power to reverse that Judgment within themselves by a Writ of Errour which may be called a Writ of Errour *coram nob. residen.* and this appears by the Register of Writs, folio 133.

lio 133. Title-errour in these words;
 Rex, &c. Dilect. & fidelib. suis F. P.
 Milit. Capital. Justic. nostro & Sociis suis
 Justiciariis nostris ad placita in Cur. nostra
 coram nob. tenend. assign. Salutem, Quia in
 recordo & processu ac etiam in promulga-
 tione utlagariæ in T. S. nuper de K. in
 Com. H. Yeoman in London, nuper pro-
 mulgat. & coram nobis ut dicitur retor-
 nat. Error intervenit manifestus ad grave
 dampnum ipsius, T. sicut ex querela sua
 accepimus. Nos error. si quis fuerit modo
 debito corrigi & eidem, T. plenam &
 celerem Justitiam fieri volentes in hac
 parte vobis mandamus, Quod si utlagaria
 prædicta coram nobis retornat. existit,
 tunc visis recordo & processu utlagariæ
 præd. & vocat. coram vobis quos in hac
 parte fore videritis evocand. ulterius
 pro adnullatione utlagariæ prædictæ fie-
 ri facias quod de jure & secundum legem
 & consuetud. Regni nostri Angliæ fuerit
 faciend. T. &c. But this Writ of Er-
 rour is not to be made by the *Filizer*
 although inserted here, but (as all o-
 thers) doth belong to the Cursitor to
 make, the which, together with the
 Return thereof, and all the Process of
 Outlawry thereupon must be entred on
 the *Filizer's* Rolls of that County where
 the Action lies, and Bail must also be
 given

given as in other cases of reversal. And indeed were it that such Writ of Error could not be brought returnable in this Court but in Parliament (considering their intervals) what great prejudice would arise thereby to such Defendants against whom all Writs and Process are duly returned and filed, which the Attorney for the Plaintiff may doe if he think it fit; though it is usual to forbear filing of the Proclamation, thereby to let the Defendant come in (if he will) to reverse the Outlawry for want of a Proclamation, by motion in Court, as before is set forth, and so may appear to the Action. And this short account may suffice as to this matter, it being but very seldom used to file all the Process, whereby to put the Defendant to bring a Writ of Error to reverse such Outlawry.

How

How to proceed to the Outlawry after Judgment.

IT hath been made a Question, whether such Process could lie in this Court or not ; and the reason alledged hath been, for that after a Recovery of a Judgment had and obtained (although upon an Action brought by Original Writ) such recovery is a Debt ; and no Action will lie for this, it being grounded upon matter of Record but an Action of Debt ; in which Action this Court hath not used to proceed by Original Writ. But in answer thereunto, in this Case the Plaintiff doth not bring his Action, but onely as it were pursues the having of his Execution ; to which end the Attorney for the Plaintiff is to take out from the *Filizer a Capias ad satisfaciendum* directed to the Sheriff of that County where the Action is laid, and upon a *non est inventus* returned and filed, the *Filizer* of that County will make out an *Exigent. post Capias* ; and as is said before in the said Statute of the thirteenth year of his now Majesty's Reign (which hath made a provision there

there for the proceedings in such Cases) that there must be fifteen days between the Teste and Return of such *Cap.* So that if there were nothing else to prove it but the words of that Statute that were sufficient in it self. But it may easily be farther proved that several *Filizers* of this Court have made out the same for several Attorneys ; It appears by the late *Filizer* of *London's* Books, that in 9 *Car. primi*, he made out one for one *Barnard* an Attorney, and the like in the same year for one *Woodward* an Attorney ; and in the year 1651. the like for one *Walpole* an Attorney ; and in the year 1662. the like for one *Marshall* an Attorney ; all Attornies of this Court, and the now *Filizer* of *Torkshire* hath done the like ; and also the now *Filizer* of *London* hath done the like, and that not onely upon Judgments recovered upon Actions brought by Original Writ, but also upon Judgments affirmed upon Writs of Errour brought upon Judgments given in inferiour Courts, in Actions of the Case, and the like Actions that are usually brought in this Court by Original Writ. And this Proceeding being very rare and seldom that it runs to so far a Line, a few
Prece.

Precedents in this nature must serve the turn, and may be sufficient to prove that it is at the Election of the Plaintiff if he pleaseth to proceed as well to the Outlawry after Judgment, whereby the Defendant is again warned as it were to come in and pay the Plaintiff his damages recovered, as to bring any action of Debt upon the said Judgment.

*Somewhat concerning Imparlanes upon
Suits brought by Original Writ.*

IT is to be presumed the course of this Court in this particular is not altered since the year of our Lord, 1654. wherein in *Michaelmas* Term in that year this Court made several Orders and Rules, and published them in Print under the hands of the then Judges to wit *Henry Rolls*, *Richard Aske* and *Richard Newdigate*, and among them these following. “ For asmuch as some
“ inconveniences do some times happen
“ to the Plaintiffs by entring their De-
“ clarations in special Actions, It is
“ therefore ordered, that the Plaintiff
“ in such special actions shall have li-
“ berty to enter Imparlanes the next
“ Term

" Term following, entring the same of
 " the first Term with an *Incipitur* as it
 " hath been usual, and that all other
 " Imparances be duely entred before
 " any Issues, Demurrers or Judgments
 " thereupon be entred. That if a De-
 " fendant appear the first Term, and
 " give no rules to declare, the Defen-
 " dants Attorney may the second Term
 " be compelled to accept a Declaration
 " with an Imparance, and the Decla-
 " ration may be entred as of that Term
 " with an Imparance over to the next
 " Term, or in the first Term with an
 " *Incipitur* as before as the case shall re-
 " quire. That if the Plaintiff declare
 " not the second Term, though the
 " Defendant give no Rules, yet a Non-
 " suit may be entred at the end of the
 " second Term upon a continuance o-
 " ver by him, by *dies datus*, but not
 " the third Term or after. Upon a
 " mere real action, an Imparance to
 " be of course. That in Ejectment or
 " any personal Action, if the appea-
 " rance be the first return of *Hilary* or
 " *Trinity*-Term no Imparance without
 " consent or special rule, In causes (o-
 " ther than *London* or *Middlesex*) if
 " the appearance be before *Craftin*.
 " *Martini* or *Mensem Paschæ*, no Im-
 " parance

"parlance without consent or special
 "rule, but if upon or after those re-
 "turns an Imparlance of course. In
 "London or Middlesex if the appearance
 "be before *Chrastin. Ascensionis Domini*,
 "or before the last return of any other
 "Term no Imparlance without consent
 "or special rule, but the Defendant to
 "plead as of that Term within 14 days
 "after the end of the Term upon rule
 "given to answer, but if of *Craftin.*
 "*Ascensionis* or the last return then an
 "Imparlance of course. If a Writ be
 "returnable *Quinque Paschæ*, or the
 "last return of any Term, the Defen-
 "dant giving rules and calling for a
 "Declaration, if it be not delivered
 "four days before the Essoin-day of
 "the ensuing Term or more, a Non-suit
 "to be entred; And likewise in the
 Court of *Common-Pleas* by their Orders
 made and printed in the year of our
 Lord, 1672. "If the Defendant ap-
 "pears upon an Arrest upon a *Clausum*
 "*fregit* (which is a general Writ, and
 "may be said to be the *Common-Pleas*
 "*Latitat*) he must have an Impar-
 "lance of course, but if the Writ
 "whereupon he was arrested be special
 "according to the truth of the action,
 "and returnable the first or second re-
 "turn

“ turn in any Term, so as a *venire facias*
 “ may issue forth, there the Defendant
 “ ought to answer the first Term in all
 “ personal and mixt actions, but in re-
 “ al actions the Defendant shall have
 “ one Impar lance of course. So that it
 appears by this order of the *Common-
 Pleas*, that the true reason of the De-
 fendant's having an Impar lance is
 grounded upon his not knowing by
 such a general Writ, what he is arrested
 for ; But here it may be objected, that
 there will not at any time need such an
 Impar lance in this Court, because (as
 is said before) it hath been always the
 constant course of this Court to set forth
 the true cause of action in the *Capias* or
 such like Writs, that so the Defendants
 may know what they are to appear to,
 In answer of which (not denying but
 agreeing wholly with what is objected)
 it was the opinion of a very learned
 Judge of this Court lately deceased, and
 who was also formerly a Judge in the
Common-Pleas, and so did very well un-
 derstand the practice of both Courts,
 (when an Attorney for a Defendant by
 Summons appeared before him,) did
 order that Attorney to take a Declara-
 tion in an action of the case by Origi-
 nal Writ , although his Client had been
 sued

sued to the Exigent but in trespass onely, and his reason was that the onely end that the Plaintiff had to sue the Defendant to the Exigent was but in order to make him appear to his suit, and now that he had appeared it was but reason he should take a Declaration in any other personal action by Original, that this Court could hold Plea of. And for the Entring of these Imparlan-ces (as it is in the *Common-Pleas*) so it is in this Court, there are Imparlance Rolls on which the Declaration and Imparlance are entred, and Issue rolls on which the said Declaration and Issue are entred, and if the Imparlance roll be right, and the Issue roll be wrong, the Imparlance roll is the Warrant to amend the Issue roll by, but if both happen to be wrong, then they are to be amended by the Original Writ it self, which is the ground of all the subsequent proceedings.

How to plead an Outlawry, either in abatement or bar of any Action.

THe first thing you are to doe, is to come to the *Filizer* where the action is laid, and search with him in his Exigent Book to see if such person (as you look after) be Outlawed, if so, then to bespeak of him a general *Capias Utlagat*. then seal it and affix it to your Plea, for if it be pleaded in disability of the person it must be pleaded as my Lord *Coke* saith * forthwith *sub pede Sigilli*, (unless the Record be in the same Court,) But if it be pleaded in Bar, and it be denyed, there must be a day given to bring it in, and if a man be Outlawed at the suit of any one man, all men shall take advantage of this personal disability. If a Defendant plead an Outlawry in the Plaintiff in disability of his person, and the Plaintiff after that purchase a Charter of Pardon, the Defendant shall answer because the Charter hath restored the Plaintiff to the Law; So note the disability abateth not the Writ, but disinablieth the Plaintiff untill he obtaineth a Charter of Pardon or reverseth the Outlawry

* *First Institutes. fol. 128.*
b

Outlawry some other way, If the ground or cause of the action be forfeited by the Outlawry as my Lord *Coke* saith in the place before mentioned then may the Outlawry be pleaded in Bar of the action, as in an action of Debt detinue, &c. (but these as is said before this Court hath not used to hold plea of by original Writ) and why it hath not, I know no reason but the custome of the Court, for the Statute of the 25. of *Edward* the 3. *Cap.* 17. The title of which Statute is thus, Process of Exigent shall be awarded in Debt, Detinue and Replevin saith in general (speaking of no particular Court of *Common-Law*) in these words. "Item it is accorded, that such process shall be made in a Writ of Debt and Detinue of Chattels, and taking of Beasts by Writ of *Capias*, and by process of Exigent by the Sheriffs return, as is used in a Writ of accompt, Which (as by the Statute of the 52. of *Henry* the 3. *Cap.* 23. appears) was against Bayliffs of Lords, by attachment of their Bodies, so here after the Exigent returned it is by *Capias Utlagat*. But in real actions or in personal where Damages be incertain (as in Trespas of Battery, of Goods, of breaking his Close

and the like) and are not forfeited by the Outlawry , there the Outlawry must be pleaded in disability of the person. And in the aforementioned Orders and Rules of this Court , among others it is ordered in this case, that in the pleading of an Outlawry the mean process be not repeated , but the Exigent and Outlawry joyned to the commencing of the suit ; The Court then being very tender and carefull of putting the Subject to any unnecessary charge made the Pleading to be as short as possibly it could. And thus much may suffice as to this manner of Pleading.

Where Suits by Original Writ ought to be laid, and when the Visne may be altered.

AS to this matter it lieth wholly in the breast of the Court upon motion in what cases to permit the changing or alteration of the *Visne* , but generally the same is never granted but upon some *Affidavit* , and by the former Orders and Rules of this Court before recited , “ It is ordered , that “ actions upon the Case, Trespass for “ Goods,

“ Goods, Assault or Imprisonment, a-
 “ rising in any *English* County, be laid
 “ in their proper Counties, unless they
 “ arise where the Justices of *Nisi prius*
 “ seldom come, and because Trespass
 “ and Trover for Goods, Battery, Im-
 “ prisonment and Slander must needs
 “ be notorious in what County they a-
 “ rise the Attorney knowingly laying
 “ them out of their proper Counties,
 “ unless in the cases before expref-
 “ sed, or for such other causes as shall
 “ be allowed by the Judges of the Court
 “ and duely made to be true, to be se-
 “ verely punished. That although the
 “ Declaration be delivered seven days
 “ before the last day of the next pre-
 “ ceding Term or after, yet before
 “ Plea, upon Oath made the *visne* may
 “ be changed upon motion in the said
 “ Transitory actions the next Term af-
 “ ter, and the Defendant to plead to
 “ the new action, as he should have
 “ done in the other without delay.
 “ That the *visne* may be changed upon
 “ Oath before, though the Defendant
 “ come in by Exigent. And in *Styles*
 his practical Register, fol. 533. it is said
 that in Transitory actions, the Plaintiff
 after the Essoin-day of the subsequent
 Term after the appearance shall not al-

ter his own *visne* though he would pay Costs or give Imparlance, which seems to imply that he may do it the same Term of the appearance with leave of the Court upon motion as aforesaid; But this being a discretionary act of the Court, little else shall be said, but left to the pleasure of the Judges of this Court, who never do it, without they see some necessary reason for it.

How to proceed so, as to have a special Capias Utlagat. together with the Inquisition thereupon taken, sent into the Exchequer, and to get a Lease from the King of the Defendants Lands.

THe way of this proceeding in this Court is much different from that in the Court of *Common-Pleas*, For there the Attorney for the Plaintiff bringing in the special *Capias Utlagat.* with the Inquisition thereupon taken annexed, into the Outlawry Office of that Court and delivering thereof to the Clerk of the Outlawries there, the said Clerk forthwith maketh a Transcript of the Writ, Return and Inquisition, in a large Exemplifying Character, and setteth

teth his own name to the bottom of it, and then he delivereth it to the Attorney for the Plaintiff who carrieth it into the *Exchequer*; But in this Court, the practice is, and long hath been, to go a farther way about, and what the reason is for it, is not well known, but conjectured to be, either that of the Grandeur of this Court (as is said before) or else to punish the Defendant the more for adventuring to run so high a contempt against the King his Crown and Dignity as not to appear in this Court after so many several Process against him, but to suffer himself to be Outlawed, and this to be by a pecuniary punishment arising by the charges of getting a Lease of his Lands from the King, which must all come out of his Estate at the last; but not to detain you any longer, the way is thus, The Attorney for the Plaintiff must bring the special *Capias Utlagat.* and Inquisition annexed into that *Filizer's* Office who made it out, for he (as is said before) is Clerk of the Outlawries as well as *Filizer*, and he will make you a Transcript of the Writ, Return and Inquisition, as is before said the Clerk of the Outlawries doth in the *Common-Pleas*; Then the said Attorney taketh back

the same together with the said Transcript, and then fileth the Writ and Inquisition with the *Custos brevium* of this Court, and then goeth to the Cur-
 sitor of the County where the Lands lie, mentioned in the said Inquisition; and he maketh him a Writ of *Certiorari* to certify the said Writ, Return and Inquisition so filed as aforesaid into the high Court of *Chancery*, which *Certiorari* he carrieth to the said *Custos brevium* who alloweth the same with the Lord Cheif Justice of this Court, and then the Attorney delivereth the said Transcript to the *Custos brevium* who affixeth it to the *Certiorari*, and then the *Custos brevium* sealeth up the same and delivereth it to the Attorney under Seal, who carrieth it forthwith into the Petty-Bag-Office belonging to the said high Court of *Chancery*, where it is filed of Record, Out of which Office, the same is sent by a Writ of *Mittimus* into the Court of *Exchequer*, into the King's *Remembrancers*-Office there, where it is likewise filed of Record, after which the said Attorney for the Plaintiff, retaineth one of the Attornies of that Office, who will prosecute the matter so in that Court as to gain a Lease from the King to be granted to the Plaintiff, who shall thereby

thereby hold the Lands demised for the Term therein mentioned, that is to say, for so long time as the same shall remain in the King's hands; And if after the Outlawry shall be pardoned or reversed by due course of Law, and the Defendant thereby restored to all that he hath lost by that Outlawry, then the Attorney for the Defendant applying himself to one of the said Attornies of the King's Remembrancer's Office aforesaid, and making the same appear, he will get the King's Hands taken off the Estate, either by sueing out a Writ of *Amoveas Manus*, or by Petition or motion in Court, or otherwise, according to the custome used in that Court.

Somewhat concerning the drawing of Declarations by Original Writ.

IT hath been formerly the practice both of this Court, and the *Court of Common-Pleas*, to repeat the cause of Action twice in the Declaration; that is to say, to the Writ, and to the Count, as may appear both by *Rastal's* and *Coke's* Books of Entries; but it is now in some sort of Actions left off in the

the *Common-Pleas*, and in this Court also, by the former orders mentioned among others it was ordered, "For
 "avoiding of long and unnecessary re-
 "petitions of the Original Writ in Ac-
 "tions upon the Case, and Personal Ac-
 "tions upon Penal Statutes, That De-
 "clarations in Actions of Trespass upon
 "the Case, or personal Actions of any
 "general Statute, namely Huy and
 "Cry, Monopolies, or for a Suit in
 "the Admiralty, and such like, other
 "than Debt, repeat not the Original Writ
 "but onely the nature of the Action,
 "viz. *A. B.* was attached to answer
C. D. in a Plea of Trespass upon the
 Case, or in a Plea of Trespass and
 Contempt against the form of the
 Statute; and that for the avoiding of
 the Common Bar and new Assign-
 ment, the Declaration upon an Ori-
 ginal *Quare clausum fregit*, may men-
 tion the place certainly, and so pre-
 vent the use and necessity of it. But
 by these Orders it doth not appear
 (none but long Actions being therein
 mentioned) that Trespass, and Tres-
 pass and Assault, and Trespass and E-
 jectment, being very short Declara-
 tions are included therein, but left to
 be declared in as formerly, both as to
 the

the Writ and Count, and so to be laid twice as heretofore hath been used in this Court.

The manner of removing Actions or Plaints out of Inferiour Courts into this Court, and after that how to proceed in them.

AS to removing of Causes by Writs of Errour, *Certior. Habeas Corpus*, or the like, I shall pass them over as being matters very well known by most Practisers in this Court, and shall onely say somewhat of removing Plaints out of such Inferiour Courts, as County Courts, or Sheriffs Courts, and Court Barons, or Manour Courts, but more especially of County Courts, and in them touching Plaints in *Replevin* there entred, and sued without Writ out of the Chancery, as it is said in *Fitz. Nat. brevium*, fol. 170. if the Plaintiff or Defendant will remove such Plaints, he ought to sue a Writ of *Recordare* out of the Chancery, directed unto the Sheriff of that County, in whose Court the Plaint is entred, *vide* the Writ it self there at large, which I here for brevity omit; whereby

whereby it appeareth, that the Plaintiff may remove such Plaint by such Writ of *Recordare*, without any cause shewn in the Writ ; but the Defendant cannot without shewing cause for it in the Writ. And the like he must doe in a Writ of *Pone*, which removes such Plaints, if such Replevin be sued by Writ out of the Chancery, and both these Writs may be returnable in this Court ; and in the *Natura brevium* afore said you may find several Causes that may be inserted on the behalf of the Defendant ; and when such Cause or Plaint in Replevin is removed either by the Plaintiff or Defendant, for in Replevin they are as it were both Plaintiffs in this Court ; the Defendant must enter his appearance with the *Filizer* of that County, out of which the Plaint is removed, and give a rule with him for the Plaintiff to declare ; and if the Plaintiff doth not declare by the time limitted in that rule, against the Defendant, or if he do declare, and the Defendant avoweth or maketh Cognizance, and upon the Issue tried, or by default in the Plaintiff, the Judgment be for the Defendant or Avowant, then the Attorney for such Defendant may have in such case from the said *Filizer* a Writ

a Writ of *Return. habend.* and Writ of Enquiry for damages, and upon the Sheriffs return of this Writ, *quod averia elongat.* then the said *Filizer* will make a *Capias* in *Withernam* to take other Cattle of the Plaintiff's, and if the Sheriff upon that doth return, that the Plaintiff hath no Cattle that he can take in *Withernam*, then the *Filizer* will make you a *Capias* against the Plaintiff's Body; and so proceed to Outlawry. And if the Plaintiff do declare that the Defendant yet hath and doth detein the Cattle, &c. and the Defendant appears, and afterwards makes default, the Plaintiff shall have Judgment to recover all in damages, as well the value of the Cattle, as his damages for taking of them, and his Costs; and to that end, the Attorney for the Plaintiff may have a Writ of Enquiry of damages from the said *Filizer*, the same proceedings in case it be in a Replevin for any dead Chattells, &c. And if a Replevin be sued by Plaintiff in the Court of any other Lord than in the County Court before the Sheriff, as in the Court Barons or Manour Courts, there it shall be also removed by a Writ of *Accedas ad Cur.* and the proceedings therein the same as before is
said

said : And if the Sheriff in any case return a *tarde*, there may be an *alias* and *pluries* had, and if a Replevin be within any Liberty or Franchise, and the Sheriff return upon the Writ of Replevin (if it be by Writ) that he hath commanded the Bayliff of the Franchise, who hath given him no answer, or that the Bayliff will make no deliverance, then the Plaintiff may have a *Non omittas* to the Sheriff, commanding him to enter into the said Liberty or Franchise, and make the return, and if the Sheriff doe it not, then the Plaintiff may have an *alias* and *plur. non omittas*, and so a *plur. ad infinitum*, &c. But if the Sheriff do not return the *plur. replevin* abovementioned, then the Plaintiff may have an Attachment against the Sheriff, directed to the Coroners of the said County : *Vide* the Statute *de Ann. 17 Car. Secundi nunc Regis*, &c. *Cap. 7.* made for a more speedy and effectual proceeding upon Distresses and Avowries for Rents ; in which you will find some former proceedings in Replevin much altered by that Statute.

Some Reasons impartially offered, to shew how it hath come to pass, that the Practice in this Court by Original Writ hath decreased, and that by Bill increased; and what hath occasioned some Entries of Issues, and other proceedings to be made, as well on the Chief Clerk's Rolls, as on the Filizer's Rolls.

THE first and greatest cause or reason (as is imagined) of the increase of the one, and the decrease of the other hath been, and now is, from the settled residence of the Kings of *England* at their Palace of *Westminster*, in the County of *Middlesex*, for in that County where they have resided, it hath always heretofore been used in such Actions as were not proceeded in by Original Writ, to take out a Bill or Precept rather (and more properly) directed to the Sheriff of that County, to take the Defendant to bring him before the King at a certain day after a certain Return in the Term, and then that Office of the Bills of *Middlesex* was an Office of great profit, although but small Fees belonging to it, by reason

son of the great number of them that were then taken out; and upon a *non est inventus* returned, there went out a *Testatum* (which hath since that time gained the name of a *Latitat*) into any other Foreign *English* County; and this was grounded upon a *Plaint* brought before the King himself at *Westminster*; and that it was so heretofore, may appear by several *Files* of them now remaining in the former upper *Treasury* belonging to this Court; a *Copy* of such *Plaint* and *Precept* I shall here set down as followeth; *viz.*

Middlef. ff.

The Plaint.

Philippus Byrd *queritur de* Johanne Bateman *de eo quod ipse decimo die Junii Annis Regnorum Domini Philippi & Dominae Mariae Regis & Reginae nunc primo & secundo vi & armis, videlicet gladiis, &c. Clausum ipsius Philippi apud Hendon in Com. predict. fregit & intravit, Et alia enormia ei intulit ad dampnum ipsius Philippi Centum Solidorum & contra pacem dicti Domini Regis & dictae Dominae Reginae nunc, &c.*

Pleg. de prof. Johannes Doo.
Richardus Roo.

On the back of which Bill or *Plaint*, it is thus written, *Ca' r. Jovis post 18. sancti Martini.*

Midd.

Precept. est Vic. quod attach. Johan- *Middlef. ff.*
The Precept
nem Bateman, Ita quod sit coram Domi-
no Rege & Domina Regina apud Westm.
die Jovis prox. post 18. sancti Martini
ad respondend. Philippo Byrd de placito
transgr. Et habeas ibi tunc hoc precept.
per. Bill. Coverd.

On the back of which Precept, it is
thus returned, *Des. infra nominat. nichil*
habet in balliva nostra per quod possit at-
tach. *Respons. Thomæ Leigh &*
Johannis Machell, Vic.

Afterwards the *Latitat* followed
(as now it is called) but then rather
styled a *Testatum* into any other Coun-
ty, and I find it differs not at all from
the now present *Latitat*, but onely in
a few words in the latter part of this
Sentence following (and although few
yet very remarkable) *Super quo in*
Cur. nostra coram nobis testat. existit quod
pred. A. B. latitat & discurrit in Com.
tuo mala quam plurima ibidem perpe-
trand. as may appear by the Files of
Latitat's there remaining; by which
you see, that both the *Plaint* and *Pre-*
cept thereupon do suggest a tort or
wrong by a *Trespas* done to the *Plain-*
tiff, although possibly that was not the
true cause of *Action*, and afterwards
H fug-

suggesting in the *Latitat a malefeasance*, by the Defendant perpetrated in another County ; and these Plaints and Precepts thereupon were so numerous then, and the advantage of receiving and filing of them of so great moment, that they have been formerly and are now likewise always excepted out of the grant to the *Custos brevium* of this Court by the Lord Chief Justice thereof (as reserved to himself) amongst other things therein excepted, in these words, (*except. factur. Record. de Nisi prius in Com. Middlesex & Transcript. & certification. super brev. errorum & reception. & filation. de lez Queriturs & attachiament. in eadem Cur. & conservat. Record. de Attinct. cum Feod. ad inde pertinen'*) as may appear by several such grants now remaining upon Record in this Court ; and then always such Bill or Precept went out first into that County of *Middlesex*, where the King was then resident, to take the Defendant, if he might be found therein to answer the Plaintiff in such Plaint, before there went a *Testatum* into any other County ; and that which was then really done, as to the taking out of such Bill or Precept of *Middlesex*, is now onely suggested in every *Latitat* ; So that when
former

former Kings at any time have adjourned the Terms to any remote place in any other County, upon any necessitous occasion, as the Plague, or the like, (as they have often done) there hath always been a Bill or Precept taken out in that County to arrest any Defendant if within that County, and if not, then one always suggested in any *Testatum* or *Latitat* into another County; and so it was (no doubt) when the Term was adjourned to *Reading* in *Berkshire*, in the first year of the Reign of *Charles* the First; and so it was likewise (to my own knowledge) when the Term of Saint *Michael*, *Anno Dom.* 1665. was adjourned by our now Sovereign Lord the King unto *Oxford*, by reason of the great Plague that then was raging both in the Cities of *London* and *Westminster*, and the Suburbs thereof: For then there was a Bill or Precept of *Oxford*, to take any Defendant there.

Secondly, Another reason may be drawn from the constant practice and course of this Court for many years (as is elsewhere said) to suppose every Defendant that is sued by Bill in this Court to be in *Custod. Mareschalli* of this Court, who really is not; whereby to intitle the Court to a jurisdiction

of the Cause, and whereas the proceedings by Original Writ are, by *Capias*, *Pone* or *Distring*. and the like, in order to make the Defendant appear before the King in this Court; the proceedings by Bill suppose him to have appeared, and that he is in actual custody of the Marshall of the *Marshalsey* of this Court, which if every such Defendant so were, the now Prison of the said Marshall would not contain them, no not if it were ten times as big as it is.

Thirdly, Another reason may be this, because sometimes it happens, that the Attornies for the Plaintiffs have not had sufficient instructions from their Clients how to draw their *Precipes* to the Cursitor, not knowing the true cause of Action; and therefore for want of that, have taken out a *Latitat de placito transgr.* upon which the Plaintiff might have declared formerly in any Action, untill of late (as is before said) it was enacted, that a Defendant should not be held to bail, except the true cause of Action were particularly expressed in the Writ; since which time, there is inserted in the *Latitat*, not onely *ad respondend.* the Plaintiff *de placito transgr.* but also *etiam billæ ipsius Quer. versus ipsum Def.*

Def. pro Centum libris de debito secundum consuetud. Cur. nostræ coram nobis exhibend. Or thus, pro non performance. promiss. & assumption. ipsius Defenden. ad dampnum ipsius Quer. Centum Librar. secundum consuetud. &c. and so to vary in the *ac etiam* according to the nature of the Action; and this being found formerly, and also now at this day likewise, to be a more easie and quick way to arrest the Defendant (because it requires not so full a setting forth of the cause of Action in the Writ of *Latitat*, as in the Writ of *Capias*, to arrest by Original) it hath gained ground in this Court.

And as to that other matter, how it hath come to pass, that some Entries of Issues, and other Proceedings have been made, as well on the Chief Clerk's Rolls, as on the Filizer's Rolls, and this since the practice hath been so much by Bill; the reason of it may be this.

FOR that the Clerks to the former chief Clerks of this Court, for many years past, have been permitted to practise as Attornies (who very

anciently, as is conceived, did not.) For the Reader is desired to take notice (as is elsewhere before said) that there are three sorts of Persons that now have privilege allowed them in this Court as Practisers.

That is to say; *First*, The *Filizers* of this Court, styled (as before) Clerks of our Sovereign Lord the King, assigned to inroll Pleas, &c. that is to say, by Original Writ onely, they made out all Proceſs thereupon, and entred them, and all Issues joined thereupon, and practised as Attornies, as the Presentment hereafter mentioned sets forth.

Secondly, The Clerks of the Office, or Clerks to the chief Clerk of our Sovereign Lord the King assigned to enroll Pleas, &c. that is to say, by Bill onely; and these Clerks had Seats in the Ancient *King's-Bench Office* in the *Temple*, which was burnt in the late dreadful Fire of *London*. The said Office it self was of so great and large an extent, and the Seats so many in it, that it looked more like a Church than an Office, and incited Strangers to offer up their Devotions there, when at first they came into it; it was as long, taking in some small rooms at each end of it (which

(which served for the Secondary, for the Clerk of the Rules, for the Clerk of the Declarations, and the Clerk of the Doggets) as *Westminster Hall* is broad (which saith *Speed* in his Chronicle, fol. 446. Sect. 31. is 74 foot of Assise) with a proportionable breadth, containing from end to end four rows of Seats, much like the now Six Clerks Office, and there did these Clerks to the chief Clerk anciently sit, and were therefore called sitting, entering Clerks, although of late they have lost that name, and at this day they are called, for distinction sake, by one of those expressions, to wit, Entering Clerks; and anciently did onely enter for the Attornies of the Court upon their Masters the then Chief Clerk's Rolls, all manner of Declarations, special Pleadings, and Issues by Bill onely, and Judgments, Demurrers, Defaults, Confessions, and all other Proceedings relating thereunto, but did not themselves practise as Attornies.

Thirdly, The Attornies of the Court, commonly called, for distinction sake, Attornies at large, for that they belonged to no certain Office, but were as it were at large in their practice, and lived in the several Counties of this

Kingdom, and had always correspondency, and still have, with one of the said Clerks of the chief Clerk, to sue out, and send them down their Writs; and to enter their Issue-rolls for them as aforesaid, and these Attornies were the onely men of business heretofore: And such Enttring Clerks as aforesaid, each Prothonotary in the *Court of Common-Pleas* formerly had, and now hath, belonging to his Office, who (as I have lately been informed by a very ancient Clerk, to one of the Prothonotaries in that Court lately deceased) did onely heretofore enter for others, and did not practise for themselves as Attornies; and that it was so used also in that Court, according to his Information, may appear by the Orders of that Court made in the eighth year of the Reign of *Charles the First*; The words (among other Orders) are these, "That the
 "Offices of Enttring-clerk, and Attor-
 "ney should be distinct, and not promiscuously used by one Person; and that
 "no Clerk of a Prothonotary's Office
 "should hereafter prosecute and defend
 "as an Attorney of that Court any personal Action whatsoever, upon pain
 "to be suspended and punished by the
 "Court. This Order among others is
 prin-

printed in *Praxis utriusque Banci*, folio 133. and I do believe remains now hung up in the *Common-Pleas Treasury*, together with divers former Orders made for entring Appearances and Issues with the *Filizers* of that Court (although, it is true as to the Issues, they do not so now) which I here for brevity sake omit, and onely cite this to shew that the *Filizers* there did enter such Issues, as appears by Orders made there in *Michaelmas* Term, in the fifteenth and sixteenth years of the Reign of Queen *Elizabeth*; printed likewise in the said Book, folio 59. and likewise remaining in the said Treasury; and by some agreement heretofore and since that time made between the *Filizers* and the Prothonotaries, the Prothonotaries now have the Entries of all Issues; but it is impossible to shew any such agreement between the *Filizers* of this Court, and any former chief Clerk or Clerks; for if it had been so, how comes it to pass that they have continued for above 200 years past untill now (as hath been before evidently proved) to enter Issues upon their own Rolls? Nay, I have seen a Copy of a Petition which was presented unto Queen *Elizabeth* by *John Rooper*

Rooper and *Thomas Rooper* (then chief Clerks or Prothonotaries of this Court) about the latter end of Her Majesty's Reign, humbly beseeching Her Majesty not to grant away any part of their Office as chief Clerks unto one *Knyvet*, who was then begging of Her Majesty, the making or marking of the *Latitat*, and Bills of *Middlesex*, and filing of the Declarations in this Court: To which Petition there was annexed several Reasons, laid down by the said chief Clerks, for which they humbly hoped Her Majesty would stay the passing of any such Grant; and among the said Reasons (as their own concession) this was one, That the *Filizers* of this Court have used to have the Entries of all general Issues in Actions brought by Original Writ in this Court; the Copy of the said Petition and Reasons was heretofore found in the hands of one *William Man*, Esquire, then Secondary of this Court; whom I find also was in the fifth year of the Reign of King *James*, *Filizer* of *Kent*, and the City of *Canterbury* in this Court, as may appear by his Admission entred in *Michaelmas* Term, in the year aforesaid, Roll 393. Whereby it appears that the said Court then thought fit to appoint a *Filizer* to be Secondary of
the

the Court. And although the chief Clerks (as is said before) have heretofore entred some, yet that doth not determine any thing of a right in them so to have done; for it is no wonder at all, that like as Fishes in the Sea, the great ones devour the less, so the great Officers (especially backt with interest) the lesser: And all this (as is conceived) hath been occasioned thus, when that heretofore for fear that other Courts of Common Law should outstrip this in practice, all the three sorts of Persons before-mentioned were permitted to practise as Attornies promiscuously one among another; then (and not before) was it that all right Entries were brought out of order, and drawn out of their true and ancient chanel, and then it came to pass that Entries of Issues by Original Writ were so frequently entred on the chief Clerks Rolls by Attornies that were then Clerks to such chief Clerks, for that they were obliged to bring as much Grift to their Master's Mill as they could; so that what Entries have been so made by such Clerks, were made out of respect to their said Masters, and not *ex debito*, and it may be sometimes also for fear of displeasing the then Secondary

condaries of the Court ; for if otherwise, then were twenty nine able Clerks and Attornies mistaken at least, (not to say perjured, for *nil nisi bonum de mortuis*) who made the Presentment upon oath of the Fees placed toward the end of this Book. And now after all that hath been said as to this matter, I would not be misapprehended by being thought hereby to endeavour to lessen the practice of this Court by Bill, and to advance that by Writ, or to detract any thing from the Clerks of the Office as they are Attornies (for whom I have a very great respect, and do verily believe they will not be hereafter guilty of making mis-entries, as the former Clerks have done, mentioned in the Preface to this Book.) And I do heartily wish well to the Court in both the ways of practice, and that the Suitors or Clients therein may doe as they shall be advised by their learned Council, or carefull and able Attornies, and take their Elections which way to proceed either by Writ or Bill ; what I have now said being by way of argument onely and no otherwise (to prove how it hath come to pass that some Entries of Issues by Original Writ have been made on the chief Clerks Rolls) and

and may possibly carry a probability of reason in it ; It is a Court in which I have had my Education , and therefore am obliged to desire the prosperity of it, which I do not in the least doubt of but it will enjoy, under the wise and prudent management of the practice thereof in both cases by Writ and by Bill, by the now most Reverend and Learned Judges sitting therein, unto whose great and profound Wisdom , I do most humbly submit whatsoever I have said in this small Treatise, having designed nothing herein but for a common good, (although I doubt I have displeased some by so doing) being importuned thereunto by divers Practisers of this Court.

Some Precedents, of frequent use , both of Writs and the Entries thereupon, and also Declarations , Imparlances , Issues, Judgments and Defaults, and other proceedings in actions brought by Original Writ, and entred by the Filizers.

ANd First, To begin with such Writs in which you proceed to the Outlawry, wherein your *Capias alias & plur.* may be made short, not reciting the cause of action at large.

Carolus,

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Carolus,

Le Capias.

Carolus, &c. Vic. L. Salutem, Præcipimus vobis quod capiat. A. B. nuper de, &c. in Com. &c. gen. si invent. fuerit in balliva vestra & eum salvo custod. Ita quod habeat' Corpus ejus coram nobis à Die, &c. Ubicunque tunc fuerimus in Anglia ad respondend. C. D. de placito Transgr. super Casum. Et habeat' ibi hoc breve. T. &c. E. F. Att.

Le Alias.

Vic. L. Salutem, Præcipimus vobis sicut alias vobis præceperimus quod capiat. &c. ut antea usque finem brevis del Cap.

Le Plur.

Vic. L. Salutem, Præcipimus vobis sicut plur. vobis præceperimus quod capiat. &c. ut antea usque Finem brevis del alias Cap.

Le Exigent.

Vic. L. Salutem, Præcipimus vobis quod Exigi faciat. A. B. nuper de, &c. in Com. &c. gen. de Hust. in Hust. quousque secundum legem & consuetud. hujus regni nostri Angliæ utlagetur. si non comparuerit & comparuerit tunc eum capiat. & salvo custod. faciat. Ita quod habeat' Corpus ejus coram nobis à die, &c. ubicunque tunc fuerimus in Anglia ad respondend. C. D. de placito quare cum, &c. Ut in le original usque ad Dampnum ipsius C. D. Centum Librar. ut dicit. Et unde

unde vofipsi nobis mand. à die, &c. (Le retorn. del plur.) ult. preterit. quod predict. A. B. non est inventus in balliva vestra. Et habeat ibi hoc breve. T. &c.

Vic. M. Salutem, Cum vic. nostris L. per breve nostrum nuper præcepimus quod exigifacerent. A. B. nuper de, &c. in Com. &c. Gen. de Hust. in Hust. quousque secundum legem & consuetud. hujus regni nostri Angliæ utlagaret si non comparuisset. Et si comparuisset tunc eum caperent & salvo custod. facerent, Ita quod haberent Corpus ejus coram nobis à die, &c. (idem retorn. cum le exigent.) ubicunque tunc fuisset in Anglia, ad respond. C. D. de placito quare cum, &c. (ut in le exigent) usque ad dampnum ipsius C. D. Centum librar. ut dicit, Ideo Tibi præcipimus quod per Statut. Anno regni Domini Elizabethæ nuper Reginae Angliæ Tricesimo primo inde provis' proclamari fac. prefat. A. B. tribus seperalibus diebus secundum formam Statuti illius unde una Proclamation' predictar. fiat ad vel prope maximum usual. Ostium Ecclesiæ parochial. ubi est inhabitans quod se reddat prefat. vic. nostris London, Ita quod habeant Corpus ejus coram nobis ad prefat. Terminum ad respondend. prefat.

Le Foreign
Proclamatio.

fat. C. D. de predicto placito. Et habeas, &c. Teste cum le Exigent.

If the Proclamation be not Foreign but into *London* as the Exigent was, then say, *Cum vobis, &c.* as in the *Supersedeas* following, and *Ideo vobis præcipimus quod per Statut' &c. usque quod se reddat vobis, Ita quod habeat' Corpus, &c. Et habeat' &c.*

Le Allocatus.

* Si in Com.

Quatuor.

Com.

† Tu ipse.

*Vic. L. Salutem, Præcipimus vobis quod allocat. ill. quatuor * Hust. ad quos A. B. nuper de, &c. in Com. &c. gen. exact. fuit & non comparuit prout. † vof- ipsi nobis à die, &c. (le retorn. del Ex- igent) ult. preterit. mand. ipsum A. B. ad prox. Hust. vestrum London ulterius exigi fac. quousque secundum legem & consuetud. hujus regni nostri Angliæ ut- lagetur si non comparuerit, &c. ut in le Ex- igent, usque ut dicit. Et habeat' &c. Teste, le retorn. del Exigent si soit in Terme, Si non, le quarto de post.*

Le Supersed.
quia impro-
vide.

Vic. L. Salutem, Cum vobis per bre- ve nostrum nuper præceperimus quod exig- i faceretis A. B. nuper de, &c. in Com. &c. gen. de Hust. in Hust. &c. ut in le breife de Exigent, usque ut dicit, Quia tamen ante emanationem pred. brevis nostri de, Exigend,

*exigend. præd. A. B. per E. F. Attorn.
suum comparuit in eadem Cur. nostra co-
ram nobis & quam plur. se obtulit ad re-
spondend' præfat. C. D. de prædicto pla-
cito, Sicque breve nostrum præd. inde
versus eundem A. B. minus rite emana-
vit, Ideo vobis præcipimus quod de ulterius
exigend' præd. A. B. utlagand. capiend'
seu ipsum in aliquo modo molestand. occa-
sione illa omnino supersedeat. T. &c. Sur
le Teste jour del Exigent, ou ascun
temps devant le retorn. de ceo.*

Vic. M. Salutem, Præcipimus tibi *Le general.
Cap. utlagat.*
*quod non omittas propter aliquam liber-
tat. Com. tui quin capias A. B. nuper de,
&c. utlagat. in London die Lunæ (le
quinto exact.) Anno regni nostri, &c.
(vel ult. præterit.) ad sect. C. D. de
placito, &c. si invent fuerit in balliva
tua & eum salvo custod. Ita quod habeas
Corpus ejus coram nobis à die, &c. ubi-
cunque tunc fuerimus in Anglia ad fac.
& rec. quod Cur. nostra coram nobis con-
sideravit in hac parte. Et habeas, &c.
Si in London, (propter aliquam Liber-
tat. Com. Civitat. vestræ quin, &c.)*

Vic. M. Salutem, ut antea usque Com. *Le special.
Cap. utlagat.*
*tui quin per Sacr' probor. & legalium ho-
minum de eodum Com. tuo diligent. in-
I quir.*

*quir. quæ bona & catalla terras & tenemen-
 ta A. B. nuper de, &c. in Com. tuo gen.
 habet seu habuit, &c. (Ut in le gen.
 Capias utlagat. usque de placito, &c.)
 prout Vic. nostri London nobis apud Westm.
 ad certum diem jam præterit. mand. Et
 ill' pereor' Sacr' extendi & appreciari fac.
 juxta verum valor' eorundem. Et ea quæ
 per Inquisitionem illam inveneris in man-
 nus nostras capias & salvo custod. fac. Ita
 quod de vero valore & exit. eorundem
 nobis respond. Et illis sit extent. & ap-
 perciat. quid inde fac. scire fac. nobis in,
 &c. ubicunque tunc fuerimus in Anglia
 distincte. & aperte sub Sigillo tuo & Si-
 gillis eor' per quor. Sacr' extent. & ap-
 perciation' ill' fac. Ac pro eo quod idem
 A. B. sic utlagat. latit. & discurr. in
 Com. tuo in nostri contempt. & Coronæ
 nostræ prejudicio ut accepimus Tibi præ-
 cipimus quod præd. A. B. ubicunque in
 balliva tua tam infra libertat. quam ex-
 tra inveniri contigerit capias & eum salvo
 custod. Ita quod habeas Corpus ejus co-
 ram nobis ad præfat. Terminum ubicunque,
 &c. ad fac. & rec' quod Cur. nostra co-
 ram nobis consideraverit in hoc parte. Et
 habeas, &c.*

Intration.
 special. Pro-
 cesse de

*London ss. C. D. per Attorn. suum ob-
 tulit se quarto Die versus A. B. nuper de,
 &c.*

&c. in Com. &c. gen. de placito quare
 cum, &c. & sic recite le tout breife de
 Cap. usque ut dicit. Et ipse non ven.
 Ideo sicut alias præcept. fuit vic. quod ca-
 perent eum, &c. Et vic. modo mand.
 quod non est inventus, &c. Ideo sicut plur.
 capiatur quod sit coram Domino Rege in
 Crastin. Animar. &c. ubicunque, &c. Ad
 quem diem coram Domino Rege apud
 Westm. ven. præd. C. D. per Attorn.
 suum præd. Et obtulit se quarto die
 versus præfat. A. B. de prædicto placito.
 Et ipse non. ven. Ideo sicut plur. præcept.
 fuit vic. quod caperent eum, &c. Et
 vic. modo mand. quod non est inventus,
 &c. Ideo præcept. est vic. quod Exigi
 fac. eum de Hust. in Hust. quousque, &c.
 utlagetur si non, &c. Et si, &c. tunc eum
 capiant, &c. Et salvo, &c. Ita quod ha-
 beant Corpus ejus coram Domino Rege in
 Octab. Pur. &c. ubicunq; &c. ad respondend.
 præfat. C. D. de prædicto placito Præ-
 cept. est etiam vic. M. quod per Statut.
 in hujusmodi casu edit. & provis' procla-
 mar' fac. præd. A. B. tribus seperalibus
 diebus secundum formam Statuti illius
 quod se reddat præfat. vic. London. Ita
 quod habeant Corpus ejus coram Domino
 Rege ad præfat. Terminum ad respon-
 dend. præfat. C. D. de præd. placito. Et
 Sciendum est quod breve Domini Regis in-

Cap. alias &
 plur. Exigen.
 & Proclam.
 & utlagaria
 reversat. Su-
 perinde.

Le Teste de
le Exigent.

Allegation
quod null.
breif. de
proclam. e-
manat. fuit.

*de Sexto die N. isto eodem Termino de-
liberat' de Recordo Deputat. vic. L. præd. in
forma juris exequend. &c. Ad quas qui-
dem Octab. Pur. &c. coram eodem Do-
mino Rege apud Westm. ven. præd. C. D.
per Attorn. suum præd. Et vic. L. vi-
delicet S. S. & T. P. retornaver' quod ad
Hust. de placito terræ tent' in Guild-hall
Civit' London. die Lunæ prox' post
Festum, &c. Anno, &c. præd. A. B. pri-
mo exact' fuit & non comparuit, Et ad
Hust' (& sic recite les tout retorn' us-
que le quinto exact. fuit) & non compa-
ruit, Ideo ipse idem A. B. utlagat' est,
Posteaque scilicet à die Paschæ, &c. ex-
tunc prox' sequen' coram eodem Domi-
no Rege apud Westm. ven. præd' A. B. in
propria persona sua, Et seipsum prisonæ
Marr' Cur' Domini Regis hic coram ipso
Rege occasione utlagariæ præd' reddat &
statim dicit quod nullum breve dicti Do-
mini Regis de Proclamatione secundum
formam Statut' de Anno tricescimo pri-
mo Elizabethæ nuper Reginae Angliæ in
hujusmodi cusu edit' & provis' versus
ipsum A. B. in placito præd. emanavit,
per quod utlagaria prædicta versus ipsum
A. in forma prædicta promulgat' & habit'
per Statut' præd. vacua & nullius vigo-
ris neque effectus in lege existit. Et hoc
parat' est verificare unde pet' Judicium
& quod*

& quod utlagaria prædicta versus ipsum
 A. in forma præd. promulgat' & habit'
 revocetur, adnulletur & penitus pro nullo
 habeatur Ac quod ipse ad omnia quæ occa-
 sione utlagariæ præd. amisit restituatur
 Et præd. A. secundum formam Statuti in
 huiusmodi casu edit' & provis' invenit
 sufficient' Manucaptor' videlicet B. F. de, Le Bayle.
 &c. Et W. M. de, &c. Et modo hic
 ad hunc diem ven' Manucaptor' præd. &
 uterque eorum pro seipso cognovit seipsum
 debere præfat' C. D. Quadragint' Libras
 seperatim, Quæ quidem seperal. Summæ
 quadragint' Librar' concedunt, & uter-
 que eorum per se concedit de eorum &
 utriusque eorum terris & Catallis fieri,
 & ad usum præd. C. D. levare sub Con-
 ditione quod præd. A. B. comparebit &
 præfat' C. D. respondebit ad novum bre-
 ve Original' per prædictum C. prose-
 quend' pro causa in dicto brevi mentio-
 nat' & solvet Condemnationem quæ fo-
 ret recuperat' Si præd. C. D. sectam su-
 am infra duos Terminos prosecut' fuerit,
 &c. Super quo viso præd. brevi scruta-
 toque filo brevium de retorno præd. bre-
 vis de Exigi facias pro proclamatione
 prædicta, eidem Cur' nunc hic manifeste
 constat allegationem præd. A. B. superius
 pro exoneratione sua de utlagaria præd.
 allegat' fore veram, Ideo considerat' est
 I 3 quod

Utlagaria re-
versat.

quod utlagaria prædicta versus præfat'
A. B. in forma præd. promulgat' & habit'
reversetur & quod præd. A. B. de utla-
garia prædicta exoneretur & ea occasione
non molestetur in aliquo seu gravet' sed eat
inde quiet' &c. Et quod præd. A. B. ad
omnia quæ ipse occasione utlagariæ præ-
dict' amisit restituatur, &c.

I do find by the *Filizers* rolls,
that most commonly such reversals of
Outlawries were entred up to the pro-
cess thus awarded, but sometimes when
it happened that the *Filizers* had the
Original Writs so late brought into
their Offices by the Attornies that they
could not award such process, for that
their Rolls were filed, then I find that
they entred up such Reversals to the
Entry of the Exigent by a *Dominus
Rex Mandavit*, &c. and so recited the
whole Exigent *in hæc verba* and the re-
turn unto the *Quinto exact'* and Judg-
ment of Outlawry, and then to assign
the *Error' pro Defect' Proclamation'*
&c. *ut antea*, &c. but certainly the
best way is to enter it up to the awar-
ding of the former Process if it may be
done.



The

The form of the Bailpeice must be cut
as other Bailpeices are, and the
Names thus inserted.

London, ss. A. B. nuper de, &c. tra-
ditur in ballium super novum breve
Original' post utlagar' reversat' per C. D.
infra duos terminos prox' sequen' impe-
trand' & ad satisfaciend' Condemnation'
si convict' fuerit, Scilicet.

Le special.
Bayle sur re-
versal. del ut-
lagar. & sem-
per cap. in
Cur. & affi-
lat. cum Cuf-
tod. brev'
hujus Cur.

R. F. de Paroch' sancti, &c. in Com. M. gen.

Et

W. M. de Paroch' sancti, &c. in Com. B. gen.

Uterque Manucaptor' sub pena Quadra-
gint' Librar' seperatim.

E. F. Att. } ad Sect.
pro. def. } C. D. gen.

London, ss. Cap. A. B. nuper de, &c. ad sect. C. D. de placito transgr. super
Casum ad Dampnum ipsius C. D. Cen-
tum Librarum.

Le special.
Bayle Sur
arrest. & cap.
coram un'
Justic. Cur.
& affilat.
cum Cuf-
tod brevium
prædict.

Manucaptor' W. S. de, &c. gen. Et
H. I. de, &c. gen.

E. F. Att' } Defend. ipse in C. C. l.
pro def. } Uterque Man' in C. l.

Note, This last special appearance, or special Bail, the *Filizer* of the County out of which the action ariseth, entreth in his Appearance-Book and (as is used in the *Common-Pleas*) goeth as is said before with the Attorney for the Defendant, with the Bail before a Judge, and taketh his hand to his Book, and when the Bail is accepted, the Plaintiffs Attorney taketh away the Bailpeice from the Judge, and after it is entred he fileth it with the *Custos Bre-vium* of this Court, with whom all Writs and Proceſs whatſoever, grounded upon Original Writs ought to be filed; the Original Writs themselves being fileable with him onely and no other, as appears by a vast number of files of such Writs and Proceſs he hath now in his Custody.

Superſedeas	<i>Vic. M. Salutem, Cum tibi per breve</i>
Sur. reverſal.	<i>noſtrum nuper præceperimus quod non omit-</i>
del utlagar.	<i>teres propter aliquam libertat' Com. tui</i>
pro defectu	<i>quin per ſacrum probor' &c. (ut in le</i>
Proclamation	<i>ſpecial' Cap. utlagat' devant) uſque ad</i>
ubi bona	<i>faciend' & recipiend' quod Cur' noſtra</i>
& Catalla	<i>coram nobis conſideraverit in ea parte. Et</i>
Def.cap.fuer.	<i>quia nobis in Cur' noſtra ſatis conſtat de</i>
per breve de	<i>Recordo quod utlagaria prædicta ob defectu</i>
ſpecial. Cap.	<i>proclamation'</i>
utlagat. de-	
vant le re-	
verſal.	

proclamation' juxta formam Statuti in
hujusmodi Casu edit' & provis' rever-
sat' existit & quod idem A. B. superinde
ven' hic in Cur' nostr' coram nobis &
invenit sufficient' Manucaptor' ad respon-
dend. præfat' C. D. super novum breve
Original' post utlagar' præd. reversat'
per præd. C. D. infra duos Terminos
prox. sequen' impetrand' & ad satisfac-
ciend' Condemnationem si convict' fuerit,
Ideo Tibi præcipimus quod si bona & Ca-
tall' prædicti A. B. virtute brevis præd.
cepistis eidem A. sine dialatione redeli-
berari fac. Præcipimus etiam tibi quod de
præfat' A. capiend' attachiend' impriso-
nand' seu ipsum occasione illa aliqualit'
molestand' omnino Supersedeas. Et si ip-
sum A. ea occasione, & non al' ceperis tunc
ipsum sine dilatione deliberar' facias pe-
riculo incumbenti, T. &c.

Vic. M. Salutem, Cum tibi, &c. ut Aliter ex af-
antea usque consideraverit in ea parte. Et sensu Attorn.
quia idem A. B. ex assensua Attorn' præd. pro Quer.
C. D. in Cur' nostra coram nobis venit & Sur def. im-
invenit sufficient' Manucaptor' ad respon- position. bal-
dend' præfat' C. D. de prædicto placito litum coram
& ad satisfaciend' præd. C. D. omnia un' Justick.
Dampna misa & Custag' in ea parte re- Cur.
cuperand' si contingat ipsum A. B. in pla-
cito præd. convinci, aut se prisonæ Marr'
Maresc'

*Maresc'. Cur' nostræ coram nobis ea occasi-
one non reddere, Ideo Tibi præcipimus
quod, &c. ut antea usque T. &c.*

Breve de
Cap. ad sa-
tisfaciend.

*Vic. L. Salutem, Præcipimus vobis
quod capiat' A. B. nuper de, &c. si in-
vent' fuerit in balliva vestra & eum
salvo custod' Ita quod habeat' Corpus e-
jus coram nobis in Crastino, &c. ubique
tunc fuerimus in Anglia ad satisfaciend'
C. D. de Centum Libris pro dampnis
suis quæ sustinuit tum occasione cujusdam
transgr' super casum per præfat' A. eidem
C. nuper illat' quem pro misis & Custag'
suis per ipsum circa sectam suam in ea
parte apponit' unde convict' est sicut
nobis constat de Recordo. Et habeat' ibi
hoc breve T. &c.*

Exigent su-
per inde.

*Vic. L. Salutem, Præcipimus vobis
quod exigi faciat' A. B. nuper de, &c.
de Hust. in Hust. quousque, &c. ut in
all' Exigent usque ubique tunc fue-
rimus in Anglia, ad satisfaciend, &c.
ut in le Capias devant usque sicut nobis
constat de Recordo. Et unde vosipsi
nobis mand' in Crastino, &c. ult' præterit'
quod præd. A. B. non est inventus in bal-
liva vestra. Et habeat ibi hoc breve
T. &c.*

Retorn. del.
Capias de-
vant.

Vic.

Vic. M. Salutem, præcipimus Tibi quod Exigi facias A. B. nuper de, &c. de Com. in Com. quousque, &c. ut in al'
Exigent usque ubicunque tunc fuerimus in Anglia ad satisfaciend' C. D. tum de, &c. quæ eidem C. in Cur' nostra de Banco adjudicat' fuer' pro dampnis suis quæ sustinuit tum occasione cujusdam transg. super casum eidem C. per præfat' A. nuper illat' quam promissis & custag' suis per ipsum circa sectam suam in ea parte apponit' unde convict' est sicut per inspectionem Recordi & processus inde quæ coram nobis nuper certis de Causis venire fecimus nobis constat de Recordo quam de, &c. quæ eidem C. in Cur' nostra coram nobis adjudicat' fuer' pro dampnis mis' & custag' suis quæ sustinuit occasione dilationis executionis Judicii præd. pretextu prosecutionis cujusdam brevis de error' Et unde, &c. ut supra, &c.

Exigent poss
 Cap. puis
 un. recov. pro
 dampn. in
 comm. Banco
 & affirmetur
 in Cur. hic
 Sur breife
 de error.

Vic. G. Salutem, Pone per vad' & salvos pleg' A. B. nuper de, &c. quod sit coram nobis in Octab. &c. ubicunque tunc fuerimus in Anglia ad respondend' C. D. de placito quare cepit Ave-ria ipsius C. & ea injuste detinuit contra vad' & pleg' &c. ut dicitur,
 Et

Breve de Poi
 ne Sur. un'
 breife de
 Recordare.

Retorn. del
Recordare.

*Et ad ostendend. quare non fuit in Cur. nostra
coram nobis in Crastino, &c. ult. præterit.
sicut dies ei præfixus fuit, Et habeas ibi
nomina pleg. Et hoc breve T. &c.*

Intratio
inde.

*Glouc. ff. C. D. per Attorn. suum ob-
tulit se quarto die versus A. B. nuper
de, &c. de placito quare cepit Averia
ipsius C. & ea injuste detinuit contra
vad. & pleg. &c. Et ipse non ven. &
habuit diem hic usque ad hunc diem sci-*

* Retorn. de
Recordare.

*licet in Crastino * Animar. coram Domino
Rege ei præfixum, &c. Ita fiat ei at-
tachiat. quod sit coram Domino Rege hic
in Octab. sancti Hilarii, &c.*

Breve de di-
string' super
Pone præd'

*Vic. G. Salutem, Præcipimus tibi quod
distring. A. B. nuper de, &c. per omnes
terr. & Catalla sua in balliva tua, Ita
quod nec ipse nec aliquis per ipsum ad ea
manum appon' donec aliud à nobis inde
habueris præcept. Et quod de exitibus
eorundum nobis respond. Ita quod habeas
Corpus ejus coram nobis à die, &c. ubi-
cunque tunc fuerimus in Angl. ad respon-
dend. C. D. de placito quare, &c. ut in
le Pone usque ut dicitur, & ad audien-
dum inde Indic. suum de plur. default, Et
habeas, &c.*

Vic.

Vic. M. Salutem, Præcipimus tibi quod distring. A. Comit. S. per omnes terr. &c. ut supra usque, Et quod de exitibus eorundem nobis respond. Ita quod sit coram nobis à Die, &c. ubicunque, &c. ad respondend. C. D. de placito quare cum, &c. & sic recite tout le original usque ut dicit, Et ad audiendum inde Judicium suum de plur. defalt. Et habeas ibi hoc breve T. &c.

Distringas
envers un
Peere.

Vic. L. Salutem, Præcipimus tibi quod distring. A. Comit. &c. per omnes terr. &c. ut supra in le brieſe de distring. usque de plur. defalt. Et unde Vic. noster M. nobis mand. à die, &c. (le retorn. de distring.) ult. præterit. quod præd. A. Comes S. nichil habet in balliva sua per quod distring. potest, Cum testat. sit in eadem Cur. nostra coram nobis quod satis habet in balliva tua per quod distring. potest. Et habeas, &c.

Testat. Di-
string. sur
nichil re-
torn. envers
un Peere.

*Carolus, &c. Vic. M. Salutem, Pone per vad' & salvos pleg. A. Comit. S. quod sit coram nobis à die, &c. ubicunque tunc fuerimus in Anglia. ad respondend. C. D. de placito quare cum, &c. (ut in le original Pone) usque ut dicit, Et unde Vic. nostri L. nobis mand. in * Octab. &c. ult.*

Testat. pone
sur tiel re-
torn. envers
un Peere.

* Retorn.
del Pone.

ult. præterit. quod præd. A. nichil habet in balliva sua per quod attach. possit, Cum testat. sit in eadem Cur. nostra coram nobis quod satis habet in balliva tua per quod attach. potest, Et habeas ibi nomina pleg. & hoc breve T. &c.

Distring.
versus un'
Corporation'
vel Hundred.

Vic. L. Salutem, Præcipimus vobis quod distring. liberos homines Mister' Piscinar. Civit. London comunit. vocat. &c. vel. sic, si sit envers Hundred Præcipimus tibi quod distring. Homines inhabitant. in Hundred. de E. in Com. tuo per omnes terr. & catalla sua, &c. ut antea, &c.

Un' Special'
Cap. ad ar-
rest.

Vic. L. Salutem, Præcipimus vobis quod capiat. A. B. nuper de, &c. si invent. fuerit in balliva vestra & eum salvo custod. quod habeat. Corpus ejus coram nobis à die, &c. ubicunque tunc fuerimus in Angl. ad respondend. C. D. de placito quare cum, &c. & sic recite tout le Original usque ad dampnum ipsius C. D. Centum Librarum ut dicit, Et habeas, &c.

Intratio
indc.

London ff. C.D. per Attorn. suum obtulit se quarto die versus A. B. nuper de, &c. de placito quare cum, &c. ut in le brieve præd. (sed nota quod in loco Anno Regni nostri in le brieve, debet esse in le Entry Anno

Anno Regni Domini Caroli Secundi nunc
Regis Angl. &c. tricesimo quarto.) &
sic usque ut dicit, Et ipse non ven' Et
præcept. fuit Vic. quod capiant eum, &c.
Et vic. modo mand. quod nichil habet, &c. Le retourn
del Cap.
Ideo capiatur quod sit coram Domino Rege
à Die, &c. Et breve deliberatur de
Recordo, &c.

Vic. M. Salutem, Præcipimus tibi quod Testat. Cap.
super inde.
capias A. B. nuper de, &c. si invent.
fuerit in balliva tua, &c. ut antea usque
ut dicit pro eo quod vic. nostri London
nobis à die, &c. ult. præterit. mand. quod
præd. A. B. non est inventus in balliva
sua, Cum testat. existit. in Cur. nostra
coram nobis quod præd. A. B. latit. &
discurr. in Com. tuo, Et habeas, &c.

London ff. C. D. per Attorn. suam ob- Intratio in
de.
tulit se quarto die versus A. B. nuper
de, &c. de placito quare, &c. ut in le
briefe devant usque ut dicit, Et præcept'
fuit vic. quod capiant eum, & vic. retourn'
quod nichil habet, &c. Ideo capiatur
quod sit coram Domino Rege à die, &c.
ubicunque, &c. Et breve deliberatur de Retourn. del
Cap.
Recordo, Ad quem diem hic ven. præd.
C. D. per Attorn. suum & obtulit se
quarto die versus præd. A. B. in placito
præd. Et ipse non ven. Et præcept. fuit
vic.

*vic. quod capiant eum, &c. Et vic. re-
torn. quod non est invent. &c. Super quo
testat. existit. hic in Cur. nostra coram no-
bis quod præd. A. B. latit' & discurr. in
Com. M. Ideo præcept. est vic. Com. M.
præd. quod capiat præd. A. B. si invent.
fuerit in balliva sua, Et eum salvo custod.
Ita quod habeat Corpus ejus coram Domi-
no Rege in Oct. &c. ubicunque, &c. ad
respond. præfat. C. D. de prædicto pla-
cito, &c.*

Retorn del
testat. Cap.

Superfedeas
in abatement
del brieve de
Exigent quia
Def. in ill.
nominat. Mi-
les quando
fuit Miles &
Baronettus.

*Vic. L. Salutem, Cum vobis per breve
nostrum, &c. ut antea in le brieve de Su-
persedeas quia improvide usque ut dixit,
Quia tamen ante emanationem dicti brevis
nostri de Exigend. quidam A. B. nuper
de London Miles & Baronettus (dicend.
quod ipse est eadem persona versus quem
prædictus C. D. tulit prædictum breve
de Exigi fac. per nomen A. B. nuper de
L. Milit. quodque ipse ante diem impe-
trationis brevis Original' prædicti, C. non
solum ordinem Militar. super se suscepis-
set, Sed etiam quod nos per Literas nostras
Patentes creavimus ipsum A. B. Baronett.
& modo Miles & Baronettus existit ;
Salvis sibi omnibus & omnimod. advanta-
gis exceptionibus & allegationibus ad
breve præd.) per E. F. Attorn. suum
comparuit in eadem Cur. nostra & quam
plur.*

plur. se obtulit ad respondend. præfat.
 C. D. de præd. placito, Sicque breve no-
 strum præd. inde versus eundem A. B.
 minus rite emanavit, Ideo vobis præci-
 pimus quod de ulterius exigend. præd.
 A. B. Mil. & Bar' utlagand. capiend.
 seu ipsum in aliquo modo molestand. occa-
 sine illa omnino supersedeat. T. &c.

Vic. G. Salutem, Cum H. D. nuper Breve de
 Vic. Com. tui per breve nostrum nuper præ- Exigi fac'
 ceperimus quod poneret per vad. & sal- post un' Po-
 vos pleg. A. B. nuper de, &c. Milit. & ne & Cap.
 Bar. quod esset coram nobis in Octab. &c. retornat.
 Anno Regni nostri, &c. ubicunque tunc fuer. & Def.
 fuissimus in Angl. ad respondend. C. D. in Contempt.
 de placito quare, &c. ut in brieve de Domini Re-
 Pone devant usque sicut dies ei præfixus gis.
 fuit; Dictusque H. D. ad diem ill. nobis
 retorn. quod præd. A. B. nichil habuit in
 balliva sua ubi aut per quod attach. po-
 tuit prout per breve illud ei præcept.
 fuit, Ob quod per breve nostrum nuper
 præceperimus quod caperes præfat. A. B.
 si invent. foret in balliva tua & eum sal-
 vo custod. Ita quod haberes Corpus ejus
 coram nobis à die, &c. ubicunque tunc
 fuissimus in Angl. ad respondend. tam
 nobis de Contempt. quam præfat C. D. de
 dampnis & injur. ei in hac parte illat.
 Tuque ad diem ill. nobis mand. quod
 K præd.

præd. A. B. non fuit invent. in balliva tua, Ideo tibi præcipimus quod Exigi fac. præfat. A. B. de Com. in Com. quousque secundum legem & consuetud. hujus Regni nostri Angl. utlagetur si non comparuerit & si comparuerit tunc eum capias & salvo custod. fac. Ita quod habeas Corpus ejus coram nobis à die, &c. ubicunque tunc fuerimus in Angl. ad respondend. tam nobis de Contempt. quam præfat. C. D. de dampn. & injur. ei in hac parte illat. Et habeas, &c.

Breve de
Certiorar.
Vic. L. pro
eo quod
Exigi fac.
casualit. per-
dit. est, su-
per quo Def.
fuit retornat.
utlagat.

Vic. L. Salutem, Cum vobis per breve nostrum nuper præceperimus quod exigi faceretis A. B. nuper de, &c. ut in brevi de Supersed. devant usque ut dixit, Cumque in Cur. nostra coram nobis testat. existit quod præd. A. B. superinde utlagat. est, sed breve de Exigi fac. præd. casualit. perdit. existit, prout ex insinuatione ipsius C. D. accepimus, Et quia volumus eidem C. D. in actione sua prædicta debitum & festinum remedium adhiberi, vobis præcipimus quod si ita sit tunc Record. utlagar. præd. cum omnibus ea tangen. tam adeo & plene coram vobis residet habeat coram nobis immediate post reception. hujus brevis ubicunque tunc fuerimus in Angl. ut Cur. nostra coram nobis illud facere valeat in præmissis quod de jure & secundum

dum legem & consuetud. huius Regni nostri Angliæ fuerit faciend. Et habeat' ibi hoc breve T. &c.

Vic. L. Salutem, Præcipimus vobis quod distring. liberos homines, &c. co'it. voc. Custod. & Comunitat. &c. ut antea in tiel distring. usque ut dicitur. Et ad audiend. inde Judicium suum de plur. defalt. Præcipimus etiam vobis quod interim in Husting. vestris prox. tenend. publice proclamari fac. quod præd. liberi homines Myster. præd. ven. coram nobis ad præfat. terminum ubicunque, &c. præfat. C. D. inde responsur. si eis viderit expediri & Proclamation. præd. sic inde fact. nobis ad eundem Terminum scilicet constar. faciat. Et habeat' ibi hoc breve T. &c.

Distring. & Proclamation. en un' brieve envers un' Corpora-tion.

Middlesex ss. A. B. nuper de, &c. at-tachiat. fuit ad respondend. C. D. de placito transgr. super Casum, Et unde idem C. D. per E. F. Attorn. suum queritur quod cum, & sic recite tot. narr. usque, Et inde produc. Sect. &c. & tunc le Imparlance sic.

Intratio de le Imparlance in ascun action per original.

Et prædictus A. B. per T. W. Attorn. suum ven. & defend. vim & injur. quando, &c. Et pet. diem inde ad interloquend. &c. Et ei conceditur, &c.

*Et super hoc dies inde dat. est partibus
prædictis coram Domino Rege usque in
Octab. &c. ubicunque, &c. videl. præ-
fat. A. B. ad interloquend. Et tunc ad
respondend. &c.*

*Scir. fac. fur.
pardon del
utlagar. per
Statut.*

*Vic. E. Salutem, Cum Tibi per breve
nostrum nuper præceperimus quod non omit-
teres propter aliquam libertat. Com. tui
quin caperes A. B. nuper de, &c. utla-
gat. apud, &c. in Com. tuo (tali die &
Anno) ad sect. C. D. de placito transgr.
super casam si invent. foret in balliva tua,
Et cum salvo custod, Ita quod haberes
Corpus ejus coram nobis in Crastino, &c.
ubicunque tunc fuisset in Anglia ad fac.
& rec. quod Cur. nostra coram nobis de eo
cons. in ea parte, Quia tamen per quen-
dam Act. in Parliament. nostro tent. apud
Westm. in Com. Middlef. (tali die &
Anno) utlagar. præd. in præfat. A. in
forma præd. promulgat. & habit. eidem
A. pardonat. fuit, Ita tamen quod præd.
A. prosequitur in eadem Cur. nostra co-
ram nobis breve nostrum de scir. fac. ad
præmuniend. præfat. C. D. de prædicto
placito, Si idem C. versus eum loqui vel-
let, Et quia expediens & necesse est quod
præd. C. pro interesse sua in hac parte
præmunitur priusquam ad exoneratio-
nem præd. A. B. de utlagar. prædicta ul-
terius*

terius procedatur, Ideo tibi præcipimus quod per probos & legales homines de balliva tua scir. fac. præfat. C. D. quod sit coram nobis in Crastino Animar. ubicunque tunc fuerimus in Anglia ad prosequend. versus præfat. A. B. Placitum suum præd. si voluerit, Et habeas ibi nomina eorum per quos ei scir. feceris & hoc breve, T. &c.

Ad quod quidem Crastinum Animar. Retorn super inde.
coram eodem Domino Rege apud Westm.

ven' præd. A. B. in propr. persona sua, Et vic. Com. præd. videlicet J. M. Ar' virtute brevis præd. ei inde direct. retorn. quod ipse per L. M. & B. F. probos & legales homines de balliva sua scir. fecit præfat. C. D. essend. coram Domino Rege ad diem prædictum ubicunque, &c.

ad prosequend. versus præfat. A. B. Et præd. C. D. licet ad eundem diem solempnit. exact. & sic præmunit. non ven' sed. default. fec. Ideo ipse & pleg. sui de

prof. scilicet Johannes Doo & Richardus Roo, sint inde in Mi'a, &c. Et præd. A. B. eat inde sine die, &c. Et pardonatio Domini Regis secundum formam

Statuti præd. præfat. A. allocetur, &c. Judic. super inde.

Vic. M. Salutem, Cum A. B. summonebat. ubi
nit. fuit essendi in Cur. nostra coram no- Quer' fecit
bis default.

bis ad respondend. C. D. de placito quare cepit averia ipsius C. & ea injuste detinuit contra vad' & pleg' ut dicitur; Idem C. postea in eadem Cur' nostra coram nobis fecit defalt. per quod conf. fuit in eadem Cur' nostra quod ipse & pleg' sui de prof. essent in Mi'a, &c. Et quod præd. A. iret inde sine die, &c. Et quod haberet retorn' averior. prædictor. Et ideo tibi præcipimus quod averia prædicta præfat. A. B. sine dilatione retornari fac', Et ea ad querimoniam præd. C. non redeliber. sine brevi nostro quod de præfat. Judic. expressam faciat mentionem, Et qualiter hoc præcept. nostrum fuerit execut. nobis à die, &c. ubicunque tunc fuerimus in Angl. constar' fac' Et habeas ibi hoc breve, T. &c.

Intratio
inde.

Middles. ff. A. B. per Attorn. suum obtulit se quarto die versus C. D. de placito quare ipse præd. A. cepit averia ipsius C. & ea injuste detinuit contra vad' & pleg', &c. Et ipse solempnit' exact' non ven' & fuit Querens, &c. Ideo conf. est quod ipse & pleg' sui de prof. sint inde in Mi'a, &c. Et quod præd' A. eat inde sine die, &c. Et quod habeat retorn. Averior. prædictor. &c. Quare nomina Pleg', &c. & qualiter, &c. Vic'

con-

constare fac. Domino Regi à die, &c. ubi-
cunque, &c.

Carolus, &c. Vic' S. Salutem, Cum J. L. summ. esset essendi in Cur' nostra co-
ram nobis ad respondend. T. H. de pla-
cito quare ipse (tali die & Anno) apud
O. in Com. tuo, in quodam loco ibidem
vocat' L. cepit averia videlicet duos Ju-
vencos, &c. Et ea injuste detinuit contra
vad' & pleg' ut dicebatur, Idemque J. in
eadem Cur' dicti Domini Regis coram ip-
so Rege comparens, certa ratione per ip-
sum in eadem Cur' dicti Domini Regis co-
ram ipso Rege allegat', ut ballivus E. L.
Milit' bene cognovit captionem averior'
præd. in præd. loco pro dampnis ibidem
factis fore justam, super quo præd. T.
postea in eadem Cur' dicti Domini Regis
coram ipso Rege apud Westm. solempnit'
exact' non venit nec ulterius fuit prose-
cut' breve suum præd', Ob quod conf. fuit
in Cur' nostra coram nobis apud Westm.
quod præd' T. & pleg' sui de prof. essent
in Mi'a, Et quod præd. J. iret inde sine
die, Et quod haberet retorn. averior'
præd', Et etiam quod præd' J. dampna sua
occasione præmiss. versus præfat. T. jux-
ta formam statuti inde edit. & provis. re-
cuperare debeat, Et Ideo tibi præcipi-
mus quod averia præd. præfat. J. sine

Retorn ha-
bend. alio
modo ubi
Quer' fecit
defalt. &
breve de Ia-
quir' de
dampnis.

*dilatione retornari fac', & ea ad queri-
moniam præd. T. non redeliber. sine
breui nostro quod de præfat. iudicio ex-
pressam faceret mentionem, & qualiter hoc
præcept. nostrum fueris execut', nobis à
die Paschæ in quinque septimanas ubicun-
que tunc fuerimus in Anglia constare fac',
Et etiam per sacrament. proborum & lega-
lium hominum de Com. tuo diligent. inqui-
ras quæ dampna præd. J. sustinuit tam oc-
casione præmis. quam pro mis. & custag' suis
per ipsum circa sect. suam in hac parte
apposit. Et inquisition. quam inde fece-
rit nobis ad præfat. terminum ubicunque,
&c. constare fac. sub sigillo tuo & sigillis
eor' per quorum sacrament. inquisition.
illam feceris, Et habeas ibi nomina eorum
per quorum sacrament. inquisitionem illam
feceris & hoc breve T.*

*Simil. Inquir.
de Reddit.
aretro & va-
lor. Averior.
capt. post
suggestion.
Def. in na-
tur. cogni-
tion. pro
quodam an-
nual. reddit.
secundum
Statut. &c.
de Anno
17 Car. 2.
Regis, cap. 7.*

*Carolus, &c. Vic' S. Salutem, Cum
J. M. & J. H. summ. fuerunt essendi in
Cur' nostra coram nobis in Octabis sancti
Hilarii Anno, &c. ubicunque tunc fueri-
mus in Anglia ad respondend. P. N. de
placito quare ceperunt averia ipsius P. &
ea injuste detinuer' contra vad. & pleg.
ut dicitur prædictusque P. postea in Cur'
nostra coram nobis fecit defalt. Cumque se-
cundum formam statuti in huiusmodi casu
edit.*

edit & provis' præd. I. M. & I. H. fecerunt suggestion' in natura cognitionis quod ipsi ceperunt averia præd. P. præd. ut ballivi I. R. gen' pro quodam annuali reddit' Novem-decem. libr' legalis monetæ Angliæ debit. & aretro eidem I. R. per præd. P. M. per spatium quinque Annor' finit ad festum sancti Michaelis Archangeli jam ult' præterit. ac pro quodam mesuag' &c. cum pertin' in tenura præd. P. dimiss. præd. P. per eundem I. R. per Indentur' geren' dat' tal' die & Anno, Ideo secundum formam statuti præd. in hujusmodi casu edit. & provis' Tibi præcipimus quod per sacrament. duodecim probor' & legalium hominum Com' tui diligenter inquiras quant' denar' fuerunt in aretro eidem I. R. de annuali reddit' præd. tempore districtiōis Averior' præd. & de vero valore Averior' capt' & Inquisition' quam inde ceperis nobis in Octabis Purificationis beatæ Mariæ ubicunque tunc fuerimus in Anglia sub sigillo tuo & sigil' eor' per quor' sacrament. Inquisition' illam ceperis mittas una cum hoc breve T. &c.

Vic. M. Salutem, Si C. D. fecerit te secur' de Clamore suo prosequend' ac etiam de Averiiis retorn' quæ A. B. in Cur' nostra adjudicat' fuer' ob defalt' ipsius C. Tibi

Breve de secunda deliberatione.

Tibi præcipimus quod si prætextu brevis nostri de retorn' habend' alias tibi inde direct' Averia prædicta præfat' A. B. retornari fecisti, tunc ea præfat' C. D. redeliberari fac' Et pon' per vad' & salvos pleg' præd. A. quod sit coram nobis in Octab. &c. ubicunque tunc fuerimus in Anglia ad respondend' præfat' C. de. Captione Averiorum prædictor. Et habeas ibi nomina pleg' & hoc breve T. &c.

Non omittas.

Vic. E. Salutem, Præcipimus tibi quod non omittas propter aliquam libertat. Libertatis Villæ de, &c. in Com' tuo quin capias A. B. nuper de, &c. si invent' fuerit in balliva tua, & eum salvo custod' Ita quod habeas Corpus ejus coram nobis in Octab' &c. ubicunque tunc fuerimus in Anglia ad respondend' C. D. de placito quare, &c. usque ut dicit. Et unde Tu ipse nobis mand' in Crastino, &c. ult' præterit. quod quoad captionem præd. A. mand. E. F. Ballivo Libertatis prædictæ qui habuit plenum retornum omnium brevium & executionem eorundem infra libertat' illam cui executio brevis prædicti totaliter pertinuit faciend' eo quod executio brevis illius extra eandem Libertat' per te fieri non potuit, Qui tibi nullum dedit respons. Et habeas ibi hoc breve T. &c.

retorn' del
Cap.

Ebor'

Ebor' ff. C. D. per Attorn' suum ^{Intratio. inde.}
 obtulit se quarto die versus A. B. nu-
 per de, &c. de placito quare, &c. usque
 ut dicit. Et ipse non ven' & præcept'
 fuit Vic' quod caperet eum si, &c. &
 salvo, &c. Ita quod haberet Corpus ejus ^{retorn' del Capias.}
 coram nobis in Crastino, &c. ult' præte-
 rit' ubicunque, &c. Et Vic' modo mand'
 quod ipse mand' E. F. Ballivo Liberta-
 tis Villæ de, &c. Qui habet plenum re-
 torn' &c. Et cui, &c. qui nullum de-
 dit ei respons. &c. Ideo præcept' est
 Vic. quod non omittat propter aliquam li-
 bertat' præd' quin capiat præd' A. B. si,
 &c. & salvo, &c. Ita quod habeat Cor-
 pus ejus coram Domino Rege in Octab. &c. ^{retorn del non omitt'}
 ubicunque, &c.

Vic. M. Salutem, Præcipimus tibi ^{Distring' Bal-}
 quod distring' I. H. Ballivum nostrum ^{livum super}
 Ducatæ nostræ L. in Com' tuo per omnes ^{Cepi Corpus,}
 terr. &c. ut in al' distring' &c.
 Ita quod habeas Corpus A. B. nuper de,
 &c. coram nobis in Octab. &c. ubicunque
 tunc fuerimus in Anglia quem per præ-
 cept' nostrum idem I. H. nuper cepit,
 prout Tuipse nobis apud Westm. in Cras-
 tino, &c. ult' præterit' mand' ad re-
 spondend' præfat' C. D. de placito quare
 &c. usque ut dicit. Et ad audiendum
 inde

*inde Iudicium suum de plur' defalt. Et
habeas ibi hoc breve T. &c.*

Intratio
indc.

Middlesex, ff. Præcept' fuit Vic. quod
caperet A. B. nuper de, &c. Si, &c. &
salvo, &c. Ita quod haberet Corpus ejus
coram Domino Rege in Crastino, &c. ubi-
cunque, &c. ult' præterit' ad respondend'
C. D. de placito: quare usque ut dicitur,
Et modo hic ad hunc diem ven' præd. C.
per Attorn' suum, Et obtulit se quarto
die versus præd. A. B. de præd. placito,
Et ipse non ven. Et Vic. retorn' quod ip-
se mand' I. H. Ballivo libertatis
nostræ Ducat' Lacastr' in Com. prædict'
qui habet retorn' omnium brevium &
execution' eorundem infra libertat' præ-
dict' & infra quam executio istius bre-
vis per ipsum præd. Vic. fieri non potuit,
Qui quidem Ballivus eidem Vic. hunc re-
spons' dedit quod ipse cepisset Corpus præd.
A. B. cujus quidem Corpus hic ad hunc
diem haberet, Et quia prædictus Balli-
vus corpus præd. A. B. hic ad hunc diem
non habuit, Ideo idem Ballivus est in
Misericordia & amerciat' per Cur'
Domini Regis hic ad Quadraginta Solid.
Ideo præcept' est Vic. quod distring' præd.
Ballivum per omnes terr' &c. Et
quod de exitibus, &c. Ita quod habeat
hic coram Domino Rege in Octab. &c.
ubicunque,

ubique, &c. Corpus præd. A. B. quem,
 &c. ad respondend' præfat' C. D. de
 prædicto Placito, &c.

Middlesex, ff. Præcept' fuit Vic. ^{Intratio.}
 quod caperet A. B. nuper de, &c. Si, ^{de languid'}
 &c. Et eum salvo, &c. Ita quod habe- ^{in Prifona}
 at Corpus ejus coram nobis in Oñab. &c. ^{super un' Ca-}
 ubique, &c. ad respondend' C. D. de ^{pias.}
 placito quare, &c. usque ut dixit, Et
 modo hic ad hunc diem ven' præd. C. D.
 per Attorn' suum, Et obtulit se quarto
 die versus præfat' A. B. de prædicto
 Placito, Et ipse non ven. Et Vic. re-
 torn' quod ipse cepisset Corpus præd. A. B.
 cujus quidem Corpus in prifona nostra lan-
 guebat & cum tam multis & talibus in-
 firmitatibus in eadem detent' est, Ita
 quod sine magno periculo mortis itinerare
 seu abcarare non potuit, Cum testat' est
 in Cur' Domini Regis hic coram ipso
 Rege quod præd. A. B. salutaris & sa-
 nus est & ad itinerand' habilis, Ideo
 præcept' est Vic. quod habeat hic in Cur'
 coram ipso Rege à die, &c. prædictum
 A. B. ad respondend' præd. C. D. de
 placito præd. &c.

Vic. M. Salutem, Præcipimus tibi quod ^{Habeas Cor-}
 habeas coram nobis à die, &c. Corpus ^{pus licet}
 A. B. nuper de, &c. quod per præcept' ^{languid'}
 nostrum

*nostrum cepisti & in Custod' tua detent.
cujus quidem Corpus tam gravit' lan-
guebat in prisoa nostra de N. & cum tam
multis & talibus infirmitatibus in eisdem
gravat' existit quod sine magno periculo
mortis itinerare seu abcaricare non potuit
prout Tu ipse nobis apud Westm. in Octab.
&c. ult' præterit. mand. ad respondend'
C. D. de placito quare cum, &c. usque
ut dicit, Et habeas ibi hoc breve T. &c.
Intratio. inde ut in al.*

*Intratio.
de amercia-
ment' Vic.
pro non re-
tornand' bre-
ve de Cap.
alias aut
plur' &c.*

*Ad quem diem coram Domini Rege a-
pud Westm. ven' præd. C.D. per Attorn.
suum, Et Vic. Com. præd. licet solemnit'
exact' ad retornandum breve præd. non
ven. nec retorn' breve illud, Ideo idem
Vic. scilicet, I. S. in Misericordia, &c.
& amerciatur per Cur' Domini Regis
hic ad Quadragint' Solidos, &c. Enter
this after the obtulit se upon the Cap. a-
lias or plur' awarded on the Filizers
Rolls, the like Entry also may serve,
for amercing the Sheriff upon any o-
ther process whatsoever.*

*Distring' nu-
per Vic.*

*Vic. M. Salutem, Præcipimus tibi
quod distring' E. F. Ar' nuper Vic.
Com. tui per omn' terr' & catalla
sua in balliva tua, Ita quod nec ipse nec
aliquis per ipsum ad ea manum appon'
donec*

donec aliud à nobis inde habueris præcept'
 Et quod de exitibus eorundem nobis re-
 spond' Ita quod Corpus A. B. nuper
 de, &c. per se captum & in prisona
 nostra sub custod' sua detent' prout
 ipse per retorn. suum in Cur' nostra
 coram nobis per se alias missum seipsum
 oneravit habeas coram nobis in Oñab. &c.
 ubicunque tunc fuerimus in Anglia ad
 respondend. C. D. de placito quare, &c.
 usque ut dicit, Et ad audiendum inde
 Judicium suum de plur. defalt. Et habeas,
 &c.

Middlesex, ff. Præcept' fuit nuper Intratio
inde.
 Vic. quod haberet hic ad hunc diem sci-
 licet à die, &c. ult. præterit. Corpus
 præd. A. B. nuper de, &c. quod præd.
 Vic. cepisset & in Custod. sua detinuisset
 ad respondend. C. D. placito quare, &c.
 usque ut dicit, Et modo hic ad hunc di-
 em ven. præd. C. per Attorn. suum, Et
 obtulit se quarto die versus præfat. A. in
 placito præd. Et ipse non ven. Et modo
 Vic. retorn. quod præd. A. B. non captus
 fuit per ipsum Vic. sed per E. F. nuper
 Vic. prædecessor' suum nec Corpus ejusdem
 A. eidem modo Vic. deliberat' fuit in
 exitu ab officio suo, Ideo præcept' est mo-
 do Vic. quod distring' prædictum nuper
 Vic. per omnes terras, &c. Et quod de
 exitibus,

exitibus, &c. Ita quod habeat coram Domino Rege in Octab. &c. ubicunque, &c. Corpus ipsius A. B. quem, &c. ad respond' præfat' C. D. de prædicto placito, &c.

Non pros'
pro defectu
Narr' post
comparenti-
am super
Exigi fac'

Glouc. ff. C. D. qui tulit breve Domini Regis coram ipso Rege de Exigi fac' versus A. B. nuper de , &c. de placito, &c. non est prosecut' breve suum præd. Ideo ipse & pleg' sui de prof. sint inde in Miserecordia, Quer' nomina pleg' &c. Et præd. A. eat inde sine die, &c. Consideratum est etiam quod præd. A. recuperet versus præfat' C. dampna sua occasione præmissor' ad xxiii s. iv. d. eidem A. per Cur' dicti domini Regis nunc hic promiss. & custag' sui in ea parte sustent' juxta formam Statuti in hujusmodi casu inde nuper edit' & provis' adjudicat' Et præd. A. habeat inde execution' &c.

Breve de
Cap. in Wi-
thernam sur'
plur' repleg'

le retorn' del
plur'

Carolus, &c. Vic. M. Salutem , Cum tibi per breve nostrum nuper Plur' præceperimus quod juste & sine dilatione replegiari faceres C. D. averia sua quæ A. B. cepit & injuste detinuit ut dicitur secundum tenorem præcepti nostri preantea tibi direct' vel tu ipse esses in Cur' nostra coram nobis in Octab. &c. ubicunque, &c. ult' præterit' ad ostendend' causam quare præcept' nostrum tam sæpe inde tibi direct' recusavisti,

recusavisti exequend, Tamen tu ipse nobis apud Westm. ad præfat' Terminum retorn' quod diu ante adventum brevis præd. tibi in ea parte direct' præd. A.B. averia præd. elongavit partibus tibi ignot' extra ballivam tuam, ita quod averia præd. eidem C. D. replegiari non possis secundum tenorem brevis præd. Nos volentes tam magnam injur' obstare & si commissa fuerit quod est justum fieri præd. C. D. Ideo Tibi præcipimus quod si præd. C. D. fecerit te securum pros' querelam suam ac etiam pro retornand' Averia sua præd. si Retorn' inde adjudicat' fuerit, tunc pone per vad' & salvos pleg' præd. A. B. quod sit coram nobis à Die, &c. ubicunque tunc fuerimus in Anglia ad respondend' præfat' C. D. de Captione & injust' detentione Averior' prædictor' & tam nobis de contempt' quam præfat' C. D. de dampnis & injuriis ei in hac parte illat' & interim eidem C. D. averia sua præd. sine dilatione (si possis) replegiari facias, Et si non possis tunc de Averis ipsius A. B. in Withernam capias pro præd. Averis ipsius C. D. & ea eidem C. D. sine dilatione deliberari fac' per ipsum detinend' quousque ei Averia sua prædicta replegiari possis, Et habeas ibi nomina Pleg' & hoc breve T. &c.

The Entry of this Writ (and other following Writs) is as the former Entries of Writs in *Replevin* or as in any other *obtulit se*, and framed out of the Writ it self and therefore here omitted.

Breve de adjournement
fact' per les
Filizers.

Carolus, &c. Vic. G. Salutem præcipimus tibi quod omnes & singulæ brevia, billæ & præcepta, tibi deliberat' vel deliberand' retornabil' in Cur' nostra coram nobis à die sancti Michaelis in tres Sept' a die, &c. in un' mensem, & in Crastino Animar' prox' sequen' ubicunque tunc fuerimus in Anglia vel interim à præd. tribus septimanis ad aliquem diem retornabil' in Custod' tua retines & eos habeas coram nobis in Crastino sancti Martini prox' sequen' ubicunque, &c. ad veniend' simul cum executionibus eorundem & hoc breve quod Cur' nostra coram nobis pro prosecutione Partium tunc fieri causaret quod est justum & secundum legem & consuetud' regni nostri Angliæ fieri debet, Et in prox' Com' tuo abinde tenend' publice proclamar' fac' quod partes in eisdem brevibus, billis & præceptis, dies suos coram nobis in Cur' nostra in prædicto Crastino sancti Martini observant, T. &c.

Virtute

Virtute istius brevis mihi direct' omnia brevia, billæ & præcepta unde infra fit mentio in custod' mea retinui & ea habeo coram Domino Rege infrascript' in Crastino sancti Martini infrascript' una cum executionibus eorundem, ac etiam ad Com' meum tent' apud N. in Com' meum die & anno infrascript' Qui quidem Com' fuit prox' Com' meus post infrascript' decimum diem Octobris proclamari feci, quod partes in brevibus, billis & præcept' infrascript' dies suos coram Domino Rege infrascript' in Crastino sancti Martini observant prout interius mihi præcipitur

Le Retorn' per Vic' superinde.

le Teste vel breife de ad 4 joruna

G. H. Miles Vic.

Carolus, &c. Coronator' Com' M. Salutem, præcipimus tibi quod distring' P. C. Ar' Vic. Com' præd. per omnes terr' &c. (ut in al') ad respondend' W. K. Ar' de placito quod ipse simul cum P. M. Clerico permittant eundem W. præsentare idoneam personam Ecclesie parochial' de A. quæ modo vacat' existit, & ad donationem suam pertinet ut dicit' & ad audiendum inde Judicium suum de Plur' defalt' Præcipimus etiam tibi quod distring' præd. P. M. per omnes terr' &c. ut in al' Ita quod habeas Corpus ejus coram nobis ad præfat'

Breve de Distring' versus un' & post un' Essoin versus al' in un' quare Impedit.

Terminum ubicunque, &c. ad respondend' præfat' W. una cum præd. P. in placito præd. & ad ostendend' causam quare non servavit diem suum ei dat' per Esson' suam hic in Cur' coram nobis in Octab. &c. ult' præterit' postquam ipse attach' fuit & ad audiendum inde Judicium suum de Plur' defalt' Et habeas ibi hoc breve T. &c.

Intratio in-
de.

Monmouth. ss. W. K. Ar' per Attorn' suum obtulit se quarto die versus P. C. Ar' Vic. Com' præd. & P. M. Clericum de placito quod ipsi permittant prædictum W. K. ad præsentand' idoneam personam Ecclesiæ Parochial' de A. quæ modo vacat' existit & ad donationem suam pertinet, &c. Et ipsi non vener' Et præcept' fuit Coronator' quod attach' prædictum P. C. Et Coronator' retorn' quod ipse attach' est per pleg' I. D. & R. R. Et ideo sit in Misericordia, &c. Et præd. P. M. habuit ab inde diem ei dat' per Esson' hic usque ad hunc diem scilicet in Octab. &c. ult' præterit' postquam ipse attach' fuit, &c. Ideo distring' eisdem P. C. & P. M. quod sint coram Domino Rege in Octab. sancti Hilarii, &c. ubicunque, &c.

Carolus,

Carolus, &c. Vic. M. Salutem , Po-
ne per vad' & salvos pleg' T. B. &
W. L. Clericum quod sint coram nobis à
die, &c. ad respondend' I. C. de placito
quod ipsi simul cum Johanne Episcopo E. &
R. P. Clerico permittant præd. I. C. ad
præsentand' idoneam personam Ecclesiæ
de E. quæ modo vacat' existit & ad do-
nationem suam pertinet ut dicit' & ad
ostendend' Causam quare non servaver'
diem suum eis inde dat' per Esson' suam
in Cur' nostra coram nobis à die , &c.
postquam summonit' fuer' Præcipimus e-
tiam tibi quod distring' præd. R. per
omnes terr' &c. ut in al' &c. usque co-
ram nobis ad præfat' Terminum ad respon-
dend' præfat' I. C. una-cum præd. T. &
W. in placito præd. & ad audiend' inde
Judicium suum de Plur' default' Et
habeas ibi hoc breve, T. &c.

Breve de Po-
ne post Es-
soine & un'
distring' in
consili' casu.

Middlesex, ff. I. C. per Attorn' suum
obtulit se quarto die versus T. B. &
W. L. Clericum & R. P. Clericum de
placito quod ipsi simulcum I. Episcopo E.
permittant præd. I. C. ad, &c. ut supra
usque ut dicit , Et ipsi non vener' Et
præd. T. & W. habuer' abinde diem eis
dat' per Esson' suam hic ad hunc diem
scilicet postquam Summonit' fuer' &c.

Intratio inde

Ideo eos attach' quod sint coram Domino Rege in Octab. &c. Et præcept' fuit Vic. quod attach' præd. R. &c. Et Vic. modo mand' quod ipse attach' est per pleg' I. D. & R. R. Ideo sit in Misericord' &c. & distring' quod sit coram nobis ad præfat' Terminum, &c.

Le Entry
del general
appearance.

Middlesex, ff. Præcept' fuit Vic. quod caperet A. B. nuper de, &c. si, &c. & eum salvo, &c. Ita quod haberet Corpus ejus coram Domino Rege in Octab. &c. ubicunque, &c. ad respondend' C. D. de placito quare, &c. ut in le Cap. usque ut dicit' Et præd. A. B. per E. F. Attorn' suum pet' quod Comparentia sua ad inde per Cur' hic recordaret' & recordatur, &c.

Confile' del
specialappea-
rance ou spe-
cial Bail.

London, ff. Præcept' fuit Vic. quod haberent hic ad hunc diem scilicet à Die, &c. Corpus A. B. nuper de, &c. quem de nuper, &c. ad respondend' C. D. de placito quare cum, &c. ut antea usque ut dicit' Et modo hic ad hunc diem ven' tam præd. C. quam præd. A. in propr' personis suis, Ac scilicet vener' hic in Cur' D. H. de, &c. & N. H. de, &c. in propr. personis suis & manuceperunt & uterque eor' per se manucepit pro eodem A. B. quod si contingat ipsum A. B. in placito prædicto convinci, tunc iidem D. H. & N. H.

N. H. concesser' & uterque eor' per se-
 concessit quod omnia dampna misa & cus-
 tag' quæ præfat' C. D. in ea parte adju-
 dicat' fuerint, de terr' & Catal' suis &
 eor' utriusque fieri & ad opus præd. C. D.
 levare si contingat ipse idem A. B. eadem
 non solveret præfat' C. D. aut se prisonæ
 Marr' Marefc' Domini Regis coram ipso
 Rege ea occasione non redderet, &c.

Carolus, &c. Vic. M. Salutem, Cum Scire fac'
 D. H. nuper de, &c. & N. H. nuper de, versus le Ma-
 &c. nuper in Cur' nostra coram nobis sci- nucaptor' su-
 licet Termino, &c. Vener' in propr' per- perinde.
 sonis & manuceper' pro A. B. nuper de,
 &c. quod si contingat eundem A. B. in
 quodam placito Transgr. super Casum ad
 sectam cujusdam C. D. convinci, tunc
 iidem D. H. & N. H. (ut in le special
 appearance usque redderet,) Iamque ex
 parte ipsius C. D. in Cur' nostra coram
 nobis accepimus quod præd. A. B. in pla-
 cito præd. convict. fuit & Quadragint'
 Libras pro dampnis mis' & Custag' eidem
 C. D. adjudicat' fuer' prout per Record'
 & process' inde quæ in Cur' nostra coram
 nobis remanen' plenius liquet & apparet,
 Ac idem A. B. eadem Dampna non solvit
 præfat' C. D. aut se prisonæ Marr' Ma-
 resc' Domini Regis coram ipso Rege ea oc-
 casione non reddidit; Ita quod Executio
 L 4 dampnor'

dampnor' prædictor' adhuc restat faciend'
unde nobis supplicavit idem C. D. sibi de
remedio congruo in hac parte provideri &
nos in hac parte fieri volentes quod est ius-
tum, Tibi præcipimus quod per probos & le-
gales homines de balliva tua scire fac' præ-
fat' D. H. & N. H. quod sint coram nobis in
Crastino, &c. ubicunque tunc fuerimus in
Anglia ad ostendend. si quid pro se habeant
vel dicere sciant quare Damna prædicta
de terris & Catallis suis & eor' utriusque
fieri & ad opus præd. C. D. levare non debent
juxta vim, formam & effectum Recogniti-
onis præd. si sibi viderit expediri, Et ulterius
factur' & receptur' quod Cur' nostra coram
nobis cons' in hac parte, Et habeat ibi
hac breve, T. &c.

Sile: sur' utla-
gar' puis
pardon Le
Roy.

Carolus, &c. Vic. L. Salutem, Cum
C. D. nuper in Cur' nostra coram nobis
per breve nostrum implacitasset A. B. nuper
de, &c. de quadam transgr. super casum
eidem C. per præfat' A. nuper illat' ut
dicit' ac idem A. pro eo quod ipse non ven-
it in Cur' nostra coram nobis præfat' C. se-
cundum legem & consuetud hujus regni
nostri Angliæ inde responsur' in exigend'
poit' fuisset in Com' tuo ad utlagand' &
ea occasione post modum utlagat' existit
sicut nobis constat de Recordo, Nosque pi-
etate moti pardonavimus eidem A. utla-
gariam

gariam prædictam & firmam pacem nostram ei inde concedimus, Ita tamen quod stet recte in Cur' nostra coram nobis juxta formam Statut' nuper edit' de hujusmodi utlagaria, Et quia necessar' & expediens est antequam præd. A. è Cur' nostra coram nobis quiete recedat quod præd. C. præmuniatur, Ideo Tibi præcipimus quod per probos & legales homines de balliva tua scire fac' præfat' C. quod sit coram nobis in Crastino, &c. ubicunque tunc fuerimus in Anglia ad prosequend' ulterius versus præd. A. de placito prædicto si voluit' Et ulterius factur' & receptur' quod Cur' nstra coram nobis de eo cons' in hac parte, Et habeas ibi nomina eor' per quos ei scire feceris & hoc breve T. &c.

Carolus, &c. Vic. L. Salutem, Cum plur' vobis per breve nostrum nuper præceperimus quod caperet' A. B. nuper de, &c. & C. D. nuper de, &c. si invent' fuissent in balliva vestra & eos salvo custod' Ita quod haberet' Corpora eor' coram nobis à die, &c. ult' præterit' ubicunque tunc fuisset in Anglia ad respondend' E. F. de placito quare cum, &c. ut in le original usque ut dicit, usque ad diem ill' nobis retorn' quod Corpus præd. A. B. cepistis, cujus quidem Corpus coram nobis ad

Exigi fac.
versus un'des
ubi alter des
capt' fuit per
plur' & comparuit super
Cepi Corpus
retornat'.

diem & locum præd. parat' habuistis & quod præd. C. D. non fuisset invent' in balliva vestra, Ideo vobis præcipimus quod Exigi fac' prædictum C. D. de Hust' in Hust' quousque secundum legem & consuetud' hujus regni nostri Angl' utlaget' si non comparuit & si, &c. ut in al' Exigent, usque ad respondend' præfat' E. F. de prædicto Placito, Et habeas ibi hoc breve T. &c.

Breve de
Proclamat'
superinde
eisdem Vic' L.

If the Procla-
mation be in-
to a Foreign
County, then
say as in the
first Procla-
mation in this
Book.

Carolus, Vic' L. Salutem, Cum plur' vobis, &c. ut supra in le Exigent usque non fuisset invent' in balliva vestra cunque etiam similiter vobis per breve nostrum nuper præceperimus quod exigi fac' & præd. C. D. de Hust' in Hust' quousque secundum legem & consuetud' hujus regni nostri Angliæ utlagaret' si non comparuisset & si, &c. ut in al' Proclamation usque ad respondend' præfat' E. F. de prædicto placito, Ideo vobis præcipimus quod per Statut' Anno, &c. ut in al' Proclamation usque, Et habeat' ibi hoc breve T. &c.

Some Directions to the County Palatines and other Jurisdictions, in Writs of general and special Outlawries, *Supersedeas*, *non Molestan'*, or the like.

Camerario nostro Com' Palatini nostri Cestr.
tri Cestr' vel ejus locum Tenenti ibidem
Salutem, This Palatinate saith my
 Lord Coke was created by *William* the
 Conquerer.

Reverend' in Christo patri' N. Dunelm' Dunelm.
Episcopo vel ejus locum Tenenti ibidem
Salutem, This soon after that.

Cancellar' nostro Com' Palatini nostri Lancastr.
Lancastr' vel ejus locum Tenenti ibidem
Salutem, This by *Edward* the Third.

Locum Tenenti nostro Castri nostri DO- Dover.
ver seu ejus in hac parte Deputat' ibi-
dem Salutem, *Præcipimus tibi quod non*
omitt' propter aliquam libertat' infra Ju-
risdiction' quinque Portium & duar' anti-
quar' villar' vel membror' eorundem quin
capias, &c. But otherwise when there
 is a Constable.

Justic' nostris Episcopi Elien' ad Placita Insula Elien.
infra Insulam Elien' tenend', ac Senescallo
ejusdem Episcopi infra libertat' Insulæ
præd. & eor' cuilibet Salutem, Præcipi-
mus vobis, ut supra.

The Writs likewise to the County Pa-
 latines aforesaid have some alterati-
 ons in the bodies of the Writs them-
 selves, and therefore I will here set
 down one or two Precedents of the
 general

general and special Outlawry, that to the difference may appear between them and others, that are not to Palatinates.

Le General
utlagar Com'
Pal' Lancastr'

Carolus, &c. Cancellar' &c. ut in le
direction, Salutem, vobis mandamus quod
per breve nostrum sub Sigillo Com' Pala-
tin' præd. debite cōficiend' & Vic' e-
jusdem Com' dirigend' mandari facias e-
undem Vic' quod non omittet & propter
aliquam libertat' Com' sui quin capiat
A. B. nuper de, &c. in Com' suo, utla-
gat' in London die Lunæ prox' post Fes-
tum, &c. Anno regni nostri, &c. ad
sect' C. D. de placito transgr' super ca-
sum si invent' fuerit' in balliva sua & e-
um salvo custod' Ita quod habeat Corpus
ejus coram nobis à die, &c. ubicunque
tunc fuerimus in Angl' ad fac' & reci-
piend' quod Cur' nostra coram nobis cons'
in hac parte, Et habeas ibi hoc breve,
T. &c. Et sic in al' Com' Palatin.

Le Special
utlagaria ei-
dem Com'.

Carolus, &c. Cancellar', &c. ut an-
tea usque propter aliquam libertat' Com' sui
quin per Sacramentum probor' & legalium
hominum de eodem Com' suo diligent' in-
quirat quæ bona & Catalla terr' & te-
nementa A. B. nuper de, &c. in Com' suo
habet seu habuit in balliva sua die
Lunæ

Lunæ, &c. ut in al' usque de placito
transgr' super Casum prout Vic' nostri
London nobis apud Westm. ad certum
diem jam præterit' mand', Et il' per eor'
sacramentum extendi & apreciari faciat
juxta verum valor' eor' Et ea quæ per
Inquisitionem illam invenerit in manus
nostras capiat & salvo custod' faciat Ita
quod de vero valor' & exit' eor' nobis
respond', Et illis, &c. sub sigillo
suo & sigillis eor' ut in al' (Special
Outlawry) usque accepimus, vobis simi-
liter mandamus quod sub Sigillo vestro in
forma prædicta mandari fac' eundem Vic'
quod præd. A. ubicunque in balliva sua
tam infra libertat' quam extra inveniri
contigerit capiat, Et eum salvo custod' Ita
quod habeat Corpus ejus coram nobis ad
præfat' terminum ubicunque, &c. ad fac'
& rec', ut antea in le general' Outlawry
usque T. &c. & sic in al' Com' Palatin'.

London, ff. A. B. nuper de, &c. at-
tachiat' fuit ad respondend' C. D. de pla-
cito transgr' super Casum, Et unde idem
C. D. per E. F. Attorn' suum queritur quod
cum, &c. & sic recite Tot' Narr' usque,
Et inde producit Sectam, &c.

Narr' in casu
semel recitat'

London,

Bis reci-
tat' in
transgr'.

London, ss. A. B. nuper de, &c. at-
tachiat' fuit ad respondend' C. D. de
placito quare vi & armis, &c. & sic
recite le breife de original usque ut dicit,
Et unde eidem C. D. per E. F. Attorn'
suum querit' quod, &c. Et sic recite tot'
Narr' ut antea, &c.

Narr' versus
un' def' quan-
do alter def'
flet utlagat'

Narr' devant, usque querit' quod cum
præd. A. B. & quidem L. M. nuper de,
&c. (Qui quidem L. modo utlagat' ex-
istit) indebitat' fuissent (tali die anno
& loco) præfat' C. D. in, &c. usque
Finem Narr'.

Non assump-
sit.

Et præd. A. B. per E. F. Attorn' suum
ven' & defend' vim & injur' quando, &c.
Et dicit quod ipse non assumpsit super se
modo et forma prout præd. C. D. superi-
us versus eum querit', Et de hoc pon' se
super Patriam, Et præd. C. D. similiter
&c. Ideo præcept' est Vic' L. quod veni-
re fac' coram Domino Rege a die, &c.
ubicunque tunc fuerimus in Angl' duode-
cim, &c. de vicinet' de, &c. in Com' præd.
per quos, &c. Et qui nec, &c. ad recogn',
&c. Quia tam, &c. Idem dies dat' est
partibus prædictis, &c.

Ut

Ut antea usque Quando, &c. Et dicit Non Cul.
quod ipse in nullo est inde culpabilis modo
& forma prout, &c. ut antea.

Et prædictus A. B. per E. F. Attorn Nil dic' in
suum ven' & defendit vim & injur' transgr' vel
quando, &c. Et nichil dicit in barr' sive transgr' super
preclusion' actionis ipsius C. D. præd. cas' & agard.
per quod idem C. D. remanet inde ver- de breve de
sus præfat' A. B. in defens' &c. — dampn' &
Ob quod idem C. D. dampna sua versus Judicium
præfat' A. B. occasione transgr' (vel superinde.
transgr' super casum) præd. recuperare
debeat, Sed quia Cur' dicti domini Re-
gis nunc hic incognit' existit quæ dampna
præd. C. D. occasione præmissor' præd.
sustinuit, Ideo præcept' est Vic' L. præd.
quod per sacramentum duodecim probor' &
legalium hominum de balliva sua diligent'
inquer' quæ dampna præd. C. D. tam occa-
sione premissor' prædictor' quam pro mis'
& Custag' suis per ipsum circa sectam su-
am in hac parte apposit' sustinuit & In-
quisition' quam inde ceperint Domino Re-
gi à die, &c. ubicunque tunc fuerit in
Angl' sub Sigill' suis & sigillis eor' per quor'
sacramentum Inquisition' ill' ceperint mit-
tant una cum breve præd. eis inde direct'
Idem dies dat' est præfat' C. D. hic, &c.
Ad quas quidem tres Septimanas sanctæ
Trinitatis

Retorn del
Inquisition

Judicium
superinde.

Le breiſſe de
Inquir. de
dampnis in
tranſgr. vel
tranſgr' ſuper
caſum.

Trinitatis coram eodem Domino Rege apud Weſtm. ven' præd. C. D. per Attorn' ſuum præd. Et Vic' L. præd. videlicet T. B. & W. R. virtut' brevis præd. eis in forma præd. direct' retornaver' quandam Inquisitionem coram eis capt' per ſacramentum xii. probor', &c. apud Guildhal' Civit' London Scituat' in poroch' ſancti Laurencii in veteri Judociſmo in Warda de Cheape ejuſmodi Civit' (tali die & anno) per quam compert' exiſtit quod præd. C. D. ſuſtin' dampna occaſione præmiſſor' præd. ultra miſ' & Cuſtag' ſua per ipſum circa ſectam ſuam in hac parte appoſit' ad, &c. Et pro miſ' & Cuſtag' al' ad, &c. — Ideo conſ' eſt quod præd. C. D. recuperet verſus præfat' A. B. dampna præd. per Inquiſition' præd. ſuperius in forma præd. compert' nec non, &c. pro miſ' & Cuſtag' per ſuis ipſum circa ſect' ſuam in hac parte appoſit' eidem C. per Cur' dicti Domini Regis nunc hic ex aſſenſu ſuo de incremento adjudicat' Quæ quidem dampna toto ſe attingunt ad, &c. Et præd. A. B. (ſi ſit tranſgr') capiat', &c. (ſi ſit in Caſu) in M'ia, &c.

Carolus, &c. Vic' L. Salutem, Cum A. B. nuper de, &c. in Com', &c. atach' fuit eſſend' in Cur' noſtra coram nobis

nobis ad respondend' C. D. de placito quā-
re cum, &c. ut in le original' usque ad
dampnum ipsius C. decem librar' ut di-
xit, & inde produxit sectam, &c. ta-
literque in eadem Cur' nostra, coram no-
bis processum est quod præd. C. D. damp-
na sua occasione transgr' (vel transgr'
super casum) præd. versus præfat' A. B.
recuperare debeat. Sed quia Cur' nostræ
coram nobis incognit' existit quæ damp-
na præd. C. occasione præmissor' prædict'
sustinuit, Ideo vobis præcipimus quod per
sacr' duodecim probor' & legalium homi-
num de balliva vestra diligent' inquir'
quæ dampna præd. C. tam occasione præ-
missor' quam pro mis. & custag' suis per
ipsum circa sectam suam in hac parte ap-
posit' sustinuit. Et inquisitionem quam
inde ceperit nobis à die, &c. ubicunque
tunc fuerimus in Anglia, sub sigillis ve-
stris & sigillis eor' per quor' sacr' inquisi-
tion' illam ceperit mittat unacum hoc bre-
ve T. &c.

Et prædictus A. B. ut infra in le nil
dicit in transgr' vel transgr' super casum
usque indefens. &c. Ideo cons' est quod
præd C. D. recuperet versus præfat. A.
B. terminum suum præd. adhuc ventur'
de & in tenementis præd. cum pertin'
Et præd. A. capiatur, &c. & similiter

Judicium in
ejectione fir-
mæ per nil
dicit versus
le casual. e-
jector' ubi
dampna
sunt remiss.

idem C. dampna sua versus præfat' A. occasione transgr' & ejectionis firmæ præd. recuperare debeat, Et super hoc idem C. gratis hic in Cur' remittit præfat' A. tam omnia hujusmodi dampna mis. & custag' quæ præfat' C. in hac parte adjudicentur quam omne iudicium & execution' habend. pro eisdem, Ideo idem A. de eisdem dampnis mis. & custag' sit inde quiet', &c. Et tantum pet' breve Domini Regis de habere faciend. ei possessionem suam termini sui prædicti adhuc ventur' de & in tenementis prædictis cum pertin' sine dilatione deliberari fac' & ei conceditur, &c. retornabile coram eodem Domino Rege in Octabis, &c. ubicunque tunc Dominus Rex fuerit in Anglia idem dies dat' est præfat' C. hic, &c.

Venir' fac'
sur exit'
junct.

Carolus, &c. Vic' M. salutem, Præcipimus tibi quod venir' fac' coram nobis à die, &c. ubicunque tunc fuerimus in Anglia xii. liberos & legales homines de vicinet' de B. in Com' tuo, Quor' quilibet habeat quatuor libr' terr' tenementor' vel reddit. per annum ad minus per quos rei veritas melius scir' poterit. Et qui nec C. D. Gen. quer' nec A. B. nuper de, &c. aliqua affinitate atting' ad faciend. quandam juratam int' partes prædictas

dictas de placito, &c. quia tam idem A. quam præd. C. int' quos inde contentio est posuer' se inde in jurat' ill. Et habeas ibi nomina jur' & hoc breve T. &c.

Carolus, &c. Vic' M. salutem, Præ-
cipimus tibi quod distring' T. G. de, &c. Distring. Jur.
superinde.
W. H. de eadem, &c. usque xxiv. jur'
summonit' in Cur' nostra coram nobis int'
C. D. Gen' quer' & A. B. nuper de, &c.
per omnes terras & catalla sua in balli-
va tua, Ita quod nec ipsi nec aliquis per
ipsos ad ea manum appon', donec aliud à
nobis inde habueris præcept', & quod de
exitibus eorundem nobis respond. Ita
quod habeas corpora eorum coram nobis
à die, &c. ubicunque tunc fuerimus in
Anglia, vel * coram
Justic' nostris ad Assi-
sas in Com' tuo capiend.
assign' si prius die, &c.
apud A. in Com' præd.
per formam Statuti in
huiusmodi casu inde nu-
per edit' & provis. venerint ad faciend.
quandam jurat' int' partes præd. de
placito, &c. Et ad audiend. inde ju-
dicium suum de plur' defalt'. Et ha-
beas ibi nomina jurator' & hoc breve
T. &c.

* Si in Lond. vel Midd. tunc,
Vel coram dilecto & fidel' nostro
E. S. Milite Capital' Justic' nostro
ad placita in Cur' nostra coram
nobis tenend' assign' si prius, &c.
apud Guildhall London, (vel in
Mid. apud Westm. in Com' Mid.
in magna aula placitorum ibidem
per formam Statuti, &c.

Le Subpoena
ad testifican'
superinde.

Si in Lond.
vel Midd.
tunc ut supra.

Carolus, &c. A. B. C. D. &c. salu-
tem, Præcipimus vobis quod omnibus &
singulis negotiis vestris & excusationibus
quibuscunque non obstant' sitis in propr'
personis vestris coram Justic' nostris ad
Assisas in Com' M. capiend. assign',
die Lunæ xiii. die J. apud A. in Com'
præd. ad testificand. ea omnia & singu-
la quæ secundum notic' & scientiam ve-
stras sciveritis in quadam actione in
Cur' nostra coram nobis jam penden' in-
determinat' int' C. D. quer' & A. B.
nuper de, &c. de placito, &c. Et hoc
nullatenus omittat' sub pœna centum li-
brar' T. &c.

Intratio del
discontinuans
del plea in
le Count per
Quer'.

Recordatur per Cur' (tali die & an-
no) quod idem placitum non habet diem
continuationis per eundem Rotulum præ-
terea quam præd. Octab' Pur', &c. Ideo
fiat Placitum præd. ad requisitionem ip-
sius Quer' discontinuari, &c.

Irrotulatio
Indentur'
cognit. coram
Capital Ju-
stic' extra
Cur'.

Angl' ff. Memorandum quod (tali die
prox' post, &c. isto eodem termino coram
Domino Rege apud W. E. S. Mil. Capi-
tal. Justic' Domini Regis ad placita in
Cur' ipsius Domini Regis coram ipso Re-
ge tenend. assign' hic recordatur quod (ta-
li die & anno) apud, &c. coram ipso
Capital.

Capital. Justic' ven' G. H. de, &c. Ar' in propria persona sua & protulit coram Capital. Justic' præd. tunc ibidem quandam indentur' quam cognovit esse factum suum, Et petiit quod indentur' ill. ut factum suum coram dicto Domino Rege de recordo irrotularetur, quam quidem indentur' præd. Capital. Justic' per manus suas propr' modo deliberavit hic in Cur' in forma præd. irrotuland. & irrotulatur in hac qua sequitur forma: This Indenture, &c.

*Angl' ff. Memorandum quod die, &c. Irrotulatio
prox' post, &c. ut antea usque apud W. ejusdem cog.
ven' G. H. de, &c. Arm', in propria in Cur'.
persona sua, Et protulit coram eodem.
Domino Rege tunc ibidem quandam In-
dentur' suam quam cognovit esse factum
suum, Et pet' quod Indentur' ill. ut fa-
ctum suum coram dicto Domino Rege de Re-
cordo irrotularetur, & irrotulatur in hac
qua sequitur forma: This Indenture, &c.*

And this any *Filizer* hath used to doe
(as appears by severall Records of this
Court before recited) although the Lands
in the Indenture mentioned lie not in such
City or County where he is *Filizer*.

*Et præd. A. B. per E. F. Attorn' suum Utlagaria sur'
ven' & defend. vim & injur' quando, &c. un' Indictm.
Et placit in bar.*

Et dic' quod ad breve præd. C. D. respondere non debet, quia dic' quod diu ante impetrationis brevis præd. scilicet xxiii. die Jan' Anno, &c. præcept' fuit Vic' S. per quoddam breve ipsius Domini Regis quod exigi faceret prædictum C. D. per nomen C. D. de L. in Com' S. Gen' de Com' in Com' quousque utlagaretur si non, &c. Et si, &c. tunc eum caperet & salvo custod. faceret. Ita quod haberet corpus ejus coram Domino Rege (tali die) ubicunque, &c. ad respondend. dicto Domino Regi de quibusdam transgr' & contempt' contra formam Statuti de se bene gerend. edit', &c. unde indictat' fuit & unde, &c. ad quem diem scilicet à die sanctæ Trinitatis in tres Septim' supradict' J. M. Arm' adtunc Vic' Com' præd. mandavit coram Domino Rege apud W. quod ad Com' suum S. tent' apud G. in Com' præd. quarto die Febr' anno, &c. præd. C. D. primo exact' fuit & non comparuit, Et ad Com' suum S. tent' &c. & sic usque quinto exact' fuit & non comparuit, Et quia idem C. D. ad null. eorum Com' comparuit, Ideo ipse idem C. D. per judicium T. M. Gen' & G. L. Gen' tunc Coronator' dicti Domini Regis præd. Com' S. utlagat' fuit, Quæ quidem utlagat' in forma prædicta promulgat' & habita coram Domino Rege apud Westm' de

de recordo adhuc in plen' robore & effectu
permanet & existit, Et hoc, &c. unde
&c. cum hoc quod idem A. B. verificare
vult quod præd. C. D. in forma præd.
utlagat' & præd. C. D. in narratione
prædicta mentionat' est una & eadem per-
sona & non al. neque diversa, &c.

Posteaq; scilicet tali die, &c. ven' præd. C. C. in propria persona sua & reddit
se prisonæ Marr' Marefc. dicti Domini
Regis coram ipso Rege occasione præd.
&c. Et statim dic' quod ipse idem Do-
minus Rex ipsum C. occasione utlagar'
præd. impetere seu occasionare non debet
quia dic' quod post utlagar' præd. in
ipsum in forma præd. promulgat' præ-
dictus Dominus Rex Angliæ, &c. ad
Parliamentum suum inchoat' & tent' a-
pud Westm' tali die anno regni sui, &c.
authoritate ejusdem Parliament' acquie-
tavit pardonavit relaxavit & exonera-
vit omnes & singul. subdit' suos & eorum
quemlibet de omnibus proditionibus felo-
niis roboriis offens. contempt' transgr'
injur' deception' malis gestur' forisfact'
penalitat' & proscuis pecuniarum sum-
mis penis mort' pænis, &c. Et hoc, &c.
unde, &c.

Replicatio
de general'
pardon al'
utlagar' pla-
ciat.

Intratio spe-
cial' par-
don' placit'
al utlagar.

Pardon o-
stens. Cur.

*Postea scilicet die Lunæ prox' post, &c.
coram Domino Rege apud Westm' ven'
præd. C. D. in propria persona sua, Et
dicit quod ipse idem Dominus Rex An-
glia, &c. post utlagar' prædictam versus
ipsum C. in forma prædicta promulgar'
scilicet (tali die & anno) apud Civit'
Westm' in Com' Midd' ex gratia sua
speciali ac ex certa scientia & mero mo-
tu suis per Literas suas Patentes sub
magno sigillo suo Angliæ sigillat', Cur'q;
dicti Domini Regis nunc hic ostens. qua-
rum dat' est apud Civit' Westm' præd.
eisdem die & anno pardonavit, remisit
& relaxavit omnes & omnimod. utlagar'
quascunque versus ipsum C. solum seu con-
junct' cum aliqua alia persona sive aliqui-
bus aliis personis, Et hoc parat' est ve-
rificare unde pet' judicium & quod utla-
garia prædicta versus ipsum in forma
prædicta promulgar' exoneretur & exo-
neratur, &c.*

Abarement
placitat' pur'
variante en-
ter le brief
de original'
& le Count

*Et præd. A. B. per E. F. Attorn' suum
ven' & dicit quod præd. C. D. ad narr'
suam præd. responderi non debet, Et pet'
auditum brevis præd. & ei legitur in hæc
verba,*

verba, ff. Carolus, &c. Quibus lectis & au-
 dit' idem A. per' iudicium de brevi præd.
 quia dicit' quod inter præd. breve &
 narrationem prædictam superinde habi-
 tam manifesta variatio apparet pro eo
 quod præd. C. D. protulit breve suum
 præd. versus ipsum A. per nomen C. D.
 Mil. & Bar' & narravit. versus eum su-
 per breve illud per nomen C. D. Ar' &
 non per nomen C. D. Mil. & Bar' prout
 præd. C. narrare debuisset, Et hoc parat'
 est verificare unde præd. A. ob variation'
 præd. per' iudicium Cur' dicti Domini Re-
 gis hic de brevi prædict', &c.

pur ceo que
 quer' port
 son brieve
 prout un'
 Mil. & Bar'
 & Count' ut
 un' Armiger,

Et præd. A. B. per E. F. Attorn' su-
 um venit & dicit quod, &c. ut supra
 Quia dicit quod alias scilicet duodecimo
 die Februarii anno regni dicti Domini
 Regis nunc, &c. xxx. in Cur' ipsius
 Regis coram ipso Rege apud Westm' in
 Com' Midd' ven' quidem L. M. & per
 debit' process. legis obtinisset & prosecut'
 fuisset quoddam breve dicti Domini
 Regis de exigi fac' versus præd. C. D.
 tunc Vic' London direct', per quod qui-
 dem breve idem Dominus Rex præcepit
 eisdem Vic' London quod exigi facerent
 præd. C. D. per nomen C. D. nuper
 de, &c. in Com', &c. Gen', de Hust' in
 Hust'

Utlagar' pla-
 cit' in abate-
 ment ad un'
 breve de exi-
 gent alio
 modo.

Hust' quousque secundum legem & consuetudinem regni dicti Domini Regis nunc Angliæ utlagaretur si non comparuisset & si comparuisset tunc eum caperent & salvo custodire facerent, Ita quod haberent corpus ejus coram dicto Domino Rege in Crastino, &c. ubicunque tunc dictus Dominus Rex fuisset in Anglia ad respondend. præd. L. M. de placito quare cum, &c. & sic recite le count usque ut dicit, Et unde iidem Vic' dicto Domino Regi in Octab', &c. tunc ult' præterit' mand. quod præd. C. D. non fuit invent' in balliva sua; prætextu cujus quidem brevis prædicti Vic' videlicet J. H. Mil. & F. L. Mil. ad præd. Crastinum, &c. eidem Domino Regi apud Westm' mand. quod ad Hust' præd. tent' apud Guildhall Civit' London tent' (tali die & anno) prædictus C. D. primo exact' fuit & non comparuit & ad al. quatuor Husting' ult' præterit' idem C. similiter exact' fuit & non comparuit, & quia ad nul. eor' Husting' comparuit, Ideo idem C. die & anno supradictis utlagat' fuit. Et idem A. B. ulterius dicit quod præd C. adhuc sic utlagat' existit & quod utlagaria prædicta in plen' robore & effectū adhuc remanet minime reversat' seu adnullat', & hoc parat est verificare per Record' utlagariæ

lagariae præd. unde pet' Judicium Cur'
dicti Domini Regis hic si prædictus C.
in hac parte responderi debeat, &c. cum
hoc, &c. ut antea in le utlagar' sur un'
indictment placit' in Bar', &c.

Venit & pet' Judicium de brevi præd. quia dicit quod præd. C. D. tempore im-
petrationis brevis originalis præd. ipsius C. (scilicet tali die & anno) & conti-
nue postea fuit & adhuc est coopert' de
quodam W. B. viro suo, qui quidem W.
non nominatur in brevi præd. Et hoc pa-
rat' est verificare unde pet' Judicium de
brevis originalis. præd. per ipsum C. per nomen C. D.
vid. in forma prædicta impetrat', &c.

Venit & pet', &c. ut antea, Quia di-
cit quod præd. C. D. in brevi præd. nominat' est & die impetrationis brevis
originalis præd. fuit Generosus, absque
hoc quod est vel eodem die fuit Armiger,
prout per breve prædictum superius sup-
ponitur, Et hoc parat' est verificare un-
de pet' Judicium de brevi præd. &c.

Venit & pet' licenc' inde interloquend. hic usque in Crast', &c. & habet, &c. i-
dem dies dat' est præfat' C. D. hic, &c. Ad quem diem coram Domino Rege apud
Welum' ven' tam præd. C. D. quam præd.

A. B.

A. B. per Attorn' suos præd. Et super hoc præd. C. pet' quod præd. A. ad breve & narration' suam præd. respondeat, &c. Et super hoc præd. A. dicit quod præd. C. ad breve præd. responderi non debet, quia dicit quod præd. C. post ultimam continuationem placiti prædicti (scilicet) post mensem Paschæ ult' præterit' de quo die actio prædicta continuata fuit hic usque ad hunc diem scilicet in Crastino, &c. & ante hunc diem fuit & adhuc excommunicat' existit; Et protulit hic in Cur' Literas testamentarias Reverendi in Christo Patris J. providentia divina Cantuar' Archiepiscopi totius Angliæ Primat' & Metropolitan', quæ excommunicatio præd. in forma præd. testantur in his verbis, ff. J. &c. (& sic recite tout les letters de excommunication) Et idem A. pet' quod Actio prædicta remaneat inde sine die quousque, &c. Cum hoc quod idem A. verificare vult quod, &c. (ut antea in le placit' del' utlagar' in abatement) est una & eadem persona & non alia neque diversa.

Placitum in
abatement
quod breve
original' im-
petratur con-
tra formam
Registri.

Et præd. A. per E. F. Attorn' suum ven' & pet' Judicium de brevi præd. quia dicit quod in brevi illo continetur hæc verba, (videlicet) secundum legem & con-

Et consuetudinem Regni Domini, &c. nunc Regis Angliæ ubi in ordine particulari registri essent hæc verba, videlicet, Secundum legem & consuetudinem Regni nostri Angliæ, Et non sicut in brevi illo continetur, Et hoc parat' est verificare unde ex qua breve præd. formatur & impetratur contra formam ordinis Registri præd. idem A. pet' Judicium de brevi illo, &c.

Ut antea, usque quia dicit quod præd. L. M. le Testator per dict' testament' & ult' voluntat' sua constituit & nominavit quendam R. S. Executor' simulcum præd. C. D. testamenti illius qui quidem R. dicto tempore impetrationis brevis original. fuit & adhuc superstes & in plena vita existit, videlicet apud, &c. in Com', &c. Et hoc, &c. ut antea, unde pro eo quod idem R. non nominatur in brevi prædicto idem A. pet' Judicium de brevi illo, &c.

Abatement placit' pur ceo que fuer' deux executor per volunt' & brief de original' fuit port in le nosme de un' eor' tantum.

Carolus, &c. Vic' M. salutem, Cum plur' tibi præceperimus quod juste & sine dilatione repleg' faceres J. S. quem J. M. & W. B. ceperunt & capt' tenent ut dicitur nisi capt' esset ad special. præcept' nostrum, vel capitalis Justic' nostri vel pro morte hominis vel pro foresta nostra vel

Cap' in Witherham ubi fur' plur' breve de homine repleg' vic' retorn' Quer' esse e. longat.

*vel pro aliquo alio recto quare secundum
 consuetudinem Regni nostri Angliæ non
 esset replegiabil. vel causam nobis sig-
 nificares quare mandat' nostrum alias ti-
 bi inde direct' exequi noluisti vel non
 potuisti, At tu spretis mandat' nostr'
 præd. ut accepimus præfat' J. S. replegi-
 ari vel saltem causam quare id facere
 noluisti vel non potuisti nobis significare
 hactenus non curaveris in nostri ac man-
 dat' nostrorum contempt' manifest' & ip-
 sius J. S. dampnum non modicum & gra-
 vamen de quo mirabamur quamplurimum
 & movem' tibi adtunc præceperimus fir-
 mit' injungentes quod præd. J. S. reple-
 giari faceres juxta tenorem mandator'
 nostror' præd. prius inde direct' vel tuip-
 se esses coram nobis in Crastino, &c. ult'
 præterito ubicunque tunc fuisset in
 Anglia Ostensur' quare mandat' nostra
 præd. toties tibi inde direct' exequi
 contempsisti, Tuque ad diem illam nobis
 retorn' quod præd. J. S. elongat' est per
 præfat' J. M. & W. B. ad loca tibi in-
 cognit' qua de causa præd. J. S. repleg'
 non potuisti, Ideo tibi præcipimus, quod
 in Withernam capias præfat' J. M. &
 W. B. & eos capt' penes se teneas quous-
 que præd. J. S. per ipsos in forma præd.
 elongat' prout per retorn' tuum nobis cer-
 tificasti gratis deliberari voluerit, Et
 qualiter*

Le retorn'
 del plur' ho-
 nine repleg.

qualiter hoc mandat nostrum fueris execut' nobis à die, &c. ubicunque, &c. constar' fac' ut ulterius inde fieri fac' prout de jure & secundum legem & consuetudinem regni nostri Angliæ fore viderimus faciend. Et habeas, &c. T. &c.

Carolus, &c. Vic' L. salutem, Cum Testar' cap' in Withern' Vic' nostro M. per breve nostrum nuper sur' plur' breve de homine repleg' faceret J. S. quem J. M. & W. B. ceperunt, &c. (ut supra usque) repleg' supra dict.

vel causam nobis significaret quare mandat' nostrum alias ei inde direct' exequi noluit vel non potuit ac idem Vic' spretis mandat' nostr' præd. ut accepimus præd. J. S. repleg' vel saltem causam quare id facere noluit vel non potuit nobis significare hactenus non curavit in nostri, &c. (at supra usque) movemus; eidem Vic' ad-tunc præceperimus firmit' injungentes quod præd. J. S. repleg' faceret juxta tenorem mandatorum nostrorum præd. prius ei inde direct' vel ipse esset coram nobis in Crastino, &c. ult' præterit' ubicunque Le retorn' del plur' homine repleg.

tunc fuissimus in Anglia ostens' quare mandat' nostra toties ei inde direct' exequi contempsit, Idemque Vic' ad diem il. nobis retornavit quod præd. J. S. elongat' fuit per præfat' J. M. & W. B. ad loca ei incognit' qua de causa præd. J. S. repleg'

Le retorn' del
Cap' in Wi-
thernam.

repleg' non potuit, Ideo eidem Vic' præce-
perimus quod in Withernam caperet præ-
fat' J. M. & W. B. & eos capt' penes se
teneret quousque præd. J. S. per ipsos
in forma præd. elongat' prout per retorn'
suum nobis certificavit gratis deliberari
voluerint, Et qualiter istud mandat' no-
strum fuerit execut' nobis a die, &c.
ult' præterit' ubicunque tunc fuisset in
Anglia constare faceret ut ulterius inde
fieri faciamus prout de jure, &c. (ut
supra usque) faciend. Ac pro eo quod i-
dem Vic' noster Midd' ad diem illam no-
bis mand. quod præd. J. M. & W. B. non
fuer' invent' in balliva sua cum testat' ex-
istit in Cur' nostra coram nobis quod præd.
J. M. & W. B. latit' & distur' in Com'
tuo, Ideo tibi præcipimus quod in Wi-
thernam capias præfat' J. M. & W. B.
& eos capt' penes se teneas quousque
præd. J. S. per ipsos in forma præd. e-
longat' gratis deliberari voluerit, Et
qualiter hoc breve nostrum fuerit execut'
nobis in Octab', &c. ubicunque tunc fue-
rimus in Anglia constar' facias ut ul-
terius inde fieri fac' prout, &c. (ut su-
pra usque) faciend. Et habeas, &c.
T. &c.

Superfed' al'
utlagar re-
veriat' quan-

Carolus, &c. Marr' Marefc' Cur'
nostræ coram nobis salutem, Cum nuper
Vic'

Vic' nostri L. per breve nostrum nuper do def. est in Custod. Marr.
præceperimus quod exigi facerent W. P.
nuper de, &c. de Hust' in Hust' usque
de placito quare cum, &c. usque ut dicit
prætextu cujus quidem brevis præd. W.
P. utlagat' fuit quæ quidem utlagaria cer-
tis de causis nobis apud Westm' specialit'
moven' reversat' evacuat' & penitus ad-
nullat' existit, Ideo tibi præcipimus
quod si ipsum W. P. occasione utlagariæ
præd. & non al. per te detent' existit
tunc ipsum ad largum ire permittas pe-
riculo incumbenti, T. &c.

Carolus, &c. Vic' M. salutem, Præ- Cap. in ap-
peal de Mort.
cipimus tibi quod capias A. B. nuper de,
&c. si invent' fuerit in balliva tua &
eum salvo custod. Ita quod habeas Corpus
ejus coram nobis in Octab', &c. ubicunque
tunc fuerimus in Anglia ad respondend.
C. D. vid. quæ fuit uxor T. D. de morte
præd. T. quondam viri sui unde eum ap-
pellat, Et habeas, &c.

Middlesex, ss. C. D. vid. quæ fuit Intratio inde
uxor T. D. per Attorn' suum juxta for-
nam Statuti, &c. optulit se quarto die
versus A. B. nuper de, &c. in Comitatu'
præd. Gen' de morte præd. T. D. quon-
dam viri sui unde eum appellat & ipse
non ven', Et præcept' fuit Vie' quod at-
N *tach'*

tach' eum per Corpus suum, Et Vic' re-
torn' quod non est invent', &c. Ideo præ-
cept' est Vic' quod capiat eum si, &c. Et
eum salvo, &c. Ita quod habeat Corpus
ejus coram Domino Rege in Octab', &c.
ubicunque, &c.

Cap' cum
Proclamatio-
ne superinde
in le foreign
County ou le
appellee no-
minatur in le
brief de ori-
ginal pur
Statut' de an.
9 H. 6. c. 10.

Carolus, &c. Vic' C. salutem, Præ-
cipimus tibi quod capias A. B. nuper
de, &c. in Com', &c. Gen' si, &c. &
eum salvo, &c. Ita quod habeas corpus
ejus coram nobis à die, &c. ubicunque
tunc fuerimus in Anglia ad respondend.
&c. ut in le Cap' supra usque unde eum
appellat, Et si præd. A. B. in balliva tua
inveniri non poterit tunc juxta formam
Statuti in hujusmodi casu edit' & provis'
ad duos Com' tuos in balliva tua citra
terminum præd. tenend. publicè procla-
mari fac' quod idem A. B. sit coram nobis
ad præfat' Terminum ad respondend.
præfat' C. de morte præd. T. D. Et
habeas, &c.

Exigi fac'
superinde.

Carolus, &c. Vic' M. salutem, Præ-
cipimus tibi quod exigi fac' A. B. nuper
de, &c. in Com' tuo Gen' de Com' in Com'
quousque, &c. ut in al. exigent usque ad
respondend. C. D. vid. quæ fuit, &c. ut
antea in le Cap. usque appellat, Et unde
tūpse nobis mand. in Oct. &c. ult' præterit'
quod

*quod præd. A. B. non est inveni' in ballivâ
tua, Et habeas, &c.*

Carolus, &c. Vic' M. salutem, Præcipimus tibi, &c. ut antea in le Capi-
as in appeal de mort, usque ad respon-
dend. C. D. de roboria ipsius C. & pa-
ce nostra fract' unde cum appellat, Et
habeas, &c.

Cap' in ap-
peal de Rob-
bery.

Carolus, &c. Vic' M. salutem, Præcipimus tibi, &c. ut antea, &c. in le
Cap' in appeal de mort', usque ad respon-
dend. C. D. de Maihemio ipsius C. &
pace nostra fract', unde, &c. ut antea,
Et habeas, &c.

Cap' in ap-
peal de
Maihm.

Note, That the proceedings by way
of Appeal in Murther, Robbery, Rape
and Maihm, and such like, were here-
tofore much used, as may appear by
divers of the Year-books, and Judg-
ments of Death have been given in
them for Murther and Robbery as the
Law required, as was lately experien-
ced in an Appeal for Murther brought
and tried at Surrey Assizes, and the
Appellee executed; and also Damages
have been given in them of Rape and
Maihm, and the like; and the Sub-
jects (as then so now) are at liberty,

and may bring their Appeals in all and the like cases above mentioned.

And because by the Statute of the first of *Edward* the sixth, *cap.* 10. it is provided that Writs of Proclamations, Outlawries and *non molestando*, and all other process for or against persons outlawed living in *Wales*, shall be awarded and directed to the Sheriffs of the particular Counties in *Wales*, therefore I shall here set down the names of the several Counties thereof and the Towns therein, which are Counties also, and have Sheriffs and their number.

The County of	[<i>Anglesey,</i>	}	Each of these have but one Sheriff.
	<i>Brecknock,</i>			
	<i>Cardigan,</i>			
	<i>Caermarthen,</i>			
	<i>Caernarvan,</i>			
	<i>Denbigh,</i>			
	<i>Flint,</i>			
	<i>Glamorgan,</i>			
	<i>Montgomery,</i>			
	<i>Merioneth,</i>			
		<i>Pembroke,</i>		
		<i>Radnor,</i>		

The Town of { *Caermarthen*, 2 Sheriffs.
Haverford West, 1 Sh.

By the same Statute it is likewise provided that Writs of Proclamations shall be awarded to the Sheriffs of the County Palatine of *Chester* and the City of *Chester*.

Some

Some Cities and Towns likewise in *England*, which are Counties also and have Sheriffs, and their number.

The City of	{ <i>Bristol</i>	2 Sheriffs.
	{ <i>Canterbury</i>	1.
	{ <i>Coventry</i>	2.
	{ <i>Exceter</i>	2.
	{ <i>Gloucester</i>	2.
	{ <i>Litchfield</i>	1.
	{ <i>Lincoln</i>	2.
	{ <i>London</i>	2.
	{ <i>Norwich</i>	2.
	{ <i>Worcester</i>	1.
	{ <i>Tork</i>	2.

The Town of	{ <i>Kingston upon Hull</i>	1 Sheriff.
	{ <i>Newcastle upon Tyne</i>	2.
	{ <i>Nottingham</i>	2.
	{ <i>Poole</i>	1.
	{ <i>Southampton</i>	1.

Every other County in *England* is known to have but one Sheriff, and therefore is here omitted.

A Modus for the Testes and Returns of Proceſs by Original Writ.

In Termino Paſchæ.

Si le Original. ſit retornabile, à die Paſchæ in xv dies, Tunc

Cap' ret' à die Paſchæ in quinque Septimanas, Teſſe, The firſt day of this Term.
Alias ret' in Craſt' Sanctæ Trinitatis, T. The Eſſoin day of *quinque Paſchæ*.
Plur' ret' à die Sanctæ Trin' in tres Sept. T. The firſt day of Trinity Term.
Exigent & Proclam' ret' in Craſt' Animar', T. The laſt day of Trinity Term.

Si à die Paſchæ in tres Septimanas,

Tunc

Cap' ret' in Craſt' Sanctæ Trinitatis, T. The Eſſoin day of *tres Paſchæ*.
Alias ret' à die Sanctæ Trin' in tres Sept, T. The firſt day of Trinity Term.
Plur' ret' à die Sancti Mich' in tres Sept, T. The laſt day of Trinity Term.
Exigent & Procl. ret' in Oſt' Pur' beatæ Mariæ, T. The firſt day of Michaelmas Term.

Si à die Paschæ in unum Mensẽ,

Tunc

Cap'

Alias

Plur'

Exigent & Proclam'

ret' ut supra in tres
Paschæ, &

T. The Essoin day of Mensẽ Paschæ.

T. } ut supra in tres Paschæ.
T. }
T. }

Si à die Paschæ in quinque Septimanas,

Tunc

Cap'

Alias

Plur'

Exigent & Proclam'

ret' ut supra in tres
Paschæ, &

T. The Essoin day of quinque Paschæ.

T. } ut supra in tres Paschæ.
T. }
T. }

Si in Crastino Aseensionis Domini,

Tunc

Cap'

Alias

Plur'

Exigent & Proclam'

ret' ut supra in tres
Paschæ, &

T. The last day of Easter Term.

T. } ut supra in tres Paschæ.
T. }
T. }

In Termino Sanctæ Trinitatis.

Si le Original sit retornable in Crastin' Sanctæ Trinitatis,

Tunc

Cap' ret' à die Sanctæ Trin' in tres Sept',

T. The first day of Trinity Term.

Alias ret' à die Sanctæ Mich' in tres Sept'

T. The last day of Trinity Term.

Plur' ret' in Crast' Animar'

T. The first day of Michaelmas Term.

Exig' & Procl. ret' in Oct' Pur' beatæ Mariæ, T. The sixth day of November.

Si in Octab' Sanctæ Trinitatis,

Tunc

Cap' ret' à die Sancti Mich' in tres Sept',

T. The Essoin day of Oct' Trin.

Alias ret' in Crast' Animar'

T. The first day of Michaelmas Term.

Plur' ret' à die Sancti Martini in xv dies,

T. Sexto Novembr.

Exig' & Procl. ret' à die Paschæ in xv dies,

T. The last day of Michaelmas Term.

Si in Quindena Sanctæ Trinitatis,

Tunc

Cap'
Alias
Plur'
Exigent & Proclam'

ret' ut supra in Octab'
Trin', &
T. } ut supra in Octab' Trin.

T. The Eßoin day of Quindena Trin.

Si à die Sanctæ Trinitatis in tres Septimanas,

Tunc

Cap'
Alias
Plur'
Exigent & Proclam'

ret' ut supra in Octab'
Trin', &
T. } ut supra in Octab' Trin.

T. The last day of Trinity Term.

In Termino Sancti Michaelis.

Si le Original sit retourné à die Sancti Michi' in tres Sept', *Tunc*
Cap' ret' in Crast' Animar', *T. The first day of Michaelmas Term.*
Alias ret' à die Sancti Mart' in xvi dies, *T. Sexto die Novembr.*
Plur' ret' in Oclab' Sancti Hillarii, *T. The last day of Michaelmas Term.*
Exig' & Procl. ret' in Crast' Ascensionis Dom', *T. The first day of Hilary Term.*

Si à die Sancti Michaelis in un' mensem, *Tunc*
Cap' ret' à die Sancti Martini in xv dies, *T. The Essoin day of mensem Michaelis.*
Alias ret' in Oclab' Sancti Hillarii, *T. The last day of Michaelmas Term.*
Plur' ret' in Oclab' Pur' beatæ Mariæ, *T. The first day of Hilary Term.*
Exig' & Procl. ret' in Crast' Sanctæ Trin', *T. The last day of Hilary Term.*

Si in Crastino Animarum, *Tunc*

Cap' ret' ut supra in mensem Michaelis, & *T. Sexto die Novembr.*
Alias ret' ut supra in mensem Michaelis, *T. ut supra in mensem Michaelis.*
Plur' ret' ut supra in mensem Michaelis, *T. ut supra in mensem Michaelis.*
Exigent & Proclam' *T. ut supra in mensem Michaelis.*

Si in Crastino Sancti Martini,

Tunc

Cap' ret' in Octab' Sancti Hillarii,

T. The Esoin day of Crast' Mart.

Alias ret' in Octab' Pur' beatæ Mariæ,

T. The first day of Hilary Term.

Plur' ret' à die Paschæ in xv dies,

T. The last day of Hilary Term.

Ex' & Procl. ret' à die S. Mich' intres Sept',

T. The first day of Easter Term.

Si in Octab' Sancti Martini,

Tunc

Cap'

Alias

Plur'

Exigent & Proclam'

ret' ut supra in Crast' Sancti Martini, &

T. The Esoin day of Octab' Martini.

T.

ut supra in Crast' Sancti Martini.

T.

Si à die Sancti Martini in xv dies,

Tunc

Cap'

Alias

Plur'

Exigent & Proclam'

ret' ut supra in Crast' Sancti Martini, &

T. The last day of Michaelmas Term.

T.

ut supra in Crast' Sancti Martini.

T.

In Termino Sancti Hillarii.

<i>Si le Original. sit ret' in Octab' Sancti Hillarii,</i>	<i>Tunc</i>
<i>Cap' ret' in Octab' Pur' beatæ Mariæ,</i>	<i>T.</i> The first day of Hillary Term.
<i>Alias ret' à die Paschæ in xv dies,</i>	<i>T.</i> The last day of Hillary Term.
<i>Plur' ret' à die Paschæ in quinque Sept',</i>	<i>T.</i> The first day of Easter Term.
<i>Ex' & Procl. ret' à die S. Mich' in treys Sept',</i>	<i>T.</i> The Effoin day of quinque Paschæ.

<i>Si in Quind. Sancti Hillarii,</i>	<i>Tunc</i>
<i>Cap' ret' à die Paschæ in xv dies,</i>	<i>T.</i> The Effoin day of quind. Hill.
<i>Alias ret' à die Paschæ in quinque Sept',</i>	<i>T.</i> The first day of Easter Term.
<i>Plur' ret' in Crast' Sanctæ Trinitatis,</i>	<i>T.</i> The Effoin day of quinque Paschæ,
<i>Exig' & Procl. ret' à die S. Mich' intres Sept',</i>	<i>T.</i> The first day of Trinity Term.

Si in Crast' Pur' beatæ Mariæ,

Tunc

Cap'

Alias

Plur'

Exigent & Proclam'

ret' ut supra in Quind. & Sancti Hillarii, & T. The Effoin day of Crast' Pur. T. ut supra in Quind. Sancti Hillarii. T.

Si in Octab' Pur' beatæ Mariæ,

Tunc

Cap'

Alias

Plur'

Exigent & Proclam'

ret' ut supra in Quind. & Sancti Hillarii, & T. The last day of Hillary Term. T. ut supra in Quind. Sancti Hillarii. T.

But note it is best (if your cause of Action in point of time arises so as will permit it) to have all Original Writs to be returnable of the first Return in any Term, for that then the Defendants will be sooner outlawed; Also, take care no Writs or Process be *Teste* on a Sunday, for *dies Dominicus non est dies Juridicus*.

This *Modus* will serve as to some returns of the Originals therein, where the actions are laid in the Counties, as well as where they are laid in *London*, and where there is not time long enough between the Teste and Return of the Exigent, (as is said elsewhere) there must be an *Allocatus* except at first you make the Exigent and Proclamation of a longer return. And it is a received opinion by some Clerks, that a Term may be skipped or passed over between the Teste and Return of the Exigent as it is in the *Modus* aforesaid of *Hilary* Term in an Original returnable in *Octab. Sancti Hillarii*, there the Teste of the Exigent is the Essoin-day of *Quinque Pasche*, and it is returnable *à die Sancti Michaelis in tres Septiman'* so that *Trinity* Term is wholly omitted, but others I have known and very good Clerks they have been, that have been of another opinion, and have looked upon it to be a discontinuance in Law to pass over any Term, and I much question their Logick that by doing otherwise yet pretend it to be a continuance, for if no adjournment of any Term can be otherwise than from Term to Term, or from return to return and no proceedings by way of entring Writs and
 conti-

continuing them to be given in evidence (in causes where the Statute of Limitations is pleaded) against such Plea, but such continuances must be always from Term to Term, and the like is always observed in the continuance of any *Elegit*, *Scire fac.* and such like Writs and in all Imparlanes, and also in every *Cur' advisare vult*, then certainly *à fortiori*, no Term in any proceedings whatsoever by Original Writ ought to be omitted but such Writs always to be made returnable either *de retorno in retortum*, or *de Termino in Terminum*, and if otherwise made may create a Moot Point in Law, and doth wholly frustrate the end of making the Writ of *Allocatus*, which is provided to supply the Defect that sometimes happens and falls out between the Teste and return of the Exigent in not having length of time enough between the same for the Sheriffs to make returns; if in *London* of five Hustings, or in the Country of five County Court-days, at which the Defendants must be called and do not appear, before they can be returned Outlawed. And that these directions being made for the ease of the Attornies may not in any sort turn to the prejudice of the *Filizers*, whom it may
be

be after such Process is made according to the *Modus* aforesaid, may not be applied unto for the signing of such Writs and Process, and be paid their just and due Fees for the same, give me leave to present you with this Rule of Court following.

*Dies Sabbati prox' post Crast' Ascensionis
Domini, Anno 31. Car. 2. Regis.*

Regula generalis.

ff. Ordinatur est quod omnia brevia & process. quaecunque super brevia original. emanand. ante comparent' Defend. signari debent per Filizar' hujus Cur' secundum consuetudinem hujus Cur' ex motione Magistri Williams.

per Cur'.

But certainly it belongs to them also to make, and so consequently to sign, other Writs and Process after appearance of the Defendant as well as before, as appears by the Copy of the Presentment of Fees following, where there are Fees set down for these three Writs, *viz. Venire fac', Distring' jur',* and *Subpœna ad testificand.* which none certainly will deny to be Writs after appearance; and although the *Exigent post Cap' Supersed.* upon reversal of an Outlawry,

Outlawry, *Scire fac'* of several sorts; nay the very entring of Appearances themselves either general or special; and many other things, as is said before, are omitted out of the said Table, yet they do *pari ratione* without all dispute belong unto them as *Filizers*; and it is very easie to prove that anciently they have made out such Writs and Process; and without all doubt whatever is begun on the Writ-side by the *Filizer* should and ought likewise to be carried on and ended by him, and the Bill-side hath no right at all to intermeddle with it no more than the Writ-side hath to intermeddle with the Bill-side.

And now as a conclusion to the whole matter I shall here give you an account of a certain Commission mentioned in the Preface, dated the Second day of *February* in the fifth year of the Reign of *Charles* the first (of ever blessed memory) and now above fifty years since, which (out of his Princely zeal and love to his Subjects, and to hinder the growth of extortion in Fees, in all his then Majesty's Courts of Common Law and Civil Law, and all other Courts whatsoever, both superiour and inferiour, in this his then Kingdom of

O *England*

England and Dominion of Wales, &c.) he was then pleased to grant to several Peers and others of this Kingdom: And that you may observe the solemnity thereof, and consequently, imagine what great stress and weight his then Majesty was pleased to lay upon it, and what respect ought now to be given to it, you have here a Copy of some part of the said Commission, (the whole being above two hundred Sheets of Paper) as it was examined (and attested upon Oath lately made in this Court) with the Record of the whole now remaining in the Chapel of the Rolls; and which follows in these words,

Le Commis-
sion.

Rex, &c. prædilectis & perquam fidelibus Consanguineis & Consiliar' nostris Edwardo Vicecomiti Conway Domino Præsidenti privati Consilii nostri, Henrico Comiti Manchester Custodi privati Consilii nostri, Thomæ Comiti Arundel & Surrey summo Marischallo Regni nostri Angliæ, Willielmo Comiti Pembroke Seneschallo Hospit' nostri, Edwardo Comiti Dorset Camerario præcharissimæ Consorti nostræ Reginae, Johanni Comiti Bridgwater, Edwardo Vicecomiti Wimbledon, Olivero Vicecomiti Grandison, & prædilecto & fidel. Consiliar' nostro Johanni

Johanni Coke *Militi uni principal. Secretar' nostror' & dilectis & fidelibus nostris* Roberto Killigrew *Militi Vicecamerario præcharissimæ Consorti nostræ*, Roberto Cotton *Militi & Baronetto*, Hugoni Middleton *Baronetto*, Henrico Spillman, Thomæ Middleton, Johanni Bingley, Willielmo Slingsby, Henrico Spiller, & Thomæ Cannon *Militibus*, Edwardo Ascoghe, Thomæ Brett, Nicholao Pay, & Thomæ Bridgeman *Armigeris*, *Salutem. Quia dat' est nobis intelligi & in parte verissimum fore invenimus, quod quamplures dilector' subditor' nostr' infra Regnum nostrum Angliæ & Principatum nostrum Walliæ tam tempore Regni Domini Jacobi beatæ memoriæ nuper Regis Angliæ præcharissimi Patris nostri quam tempore Regni nostri fuer' & in dies sunt injuste onerati & gravati diversis excessivis Feodis & pecuniar' summis injuste & extorsive exattis & receptis per quosdam Attornatos, Solicitatores, Clericos, & al. Officiar' & Ministros in Cur' & foris nostris Judicialibus comunit' tent' apud Westm', &c. Nos intuitu regio hæc considerantes & volentes quod Justitia omnibus Subdit' nostris æqualit' & indifferent' administretur cum tanta expeditione & tam minimis expensis quam convenient' fieri posset, Ac*

quod omnes extortiones, exactiones, corruptiones, dilationes, abusus & enormitates qualescunque exercitat' vel usitat' in Curiis & Offic' præd. vel alibi infra Regnum nostrum Angliæ & Principat' Walliæ tam infra libertates quam extra examinentur, explorentur & reformentur, Et qui sic offendisse inveniuntur aspere & severe corrigantur & puniantur juxta eor' demerita, Et nos ulterius intendentes pro bono & quiete dilector' subditor' nostror' quod omnia antiqua legalia & debita feoda in omnibus Curiis nostris, &c. & in omnibus & singulis Offic' infra Regnum nostrum Angliæ, &c. per omnes legales, &c. modos, vias, modos & medios celerrime manifestentur, appunctuantur & stabilientur, ac omnia nova & exacta feoda gratuitates & extortiones sub colore feodor' capt' penitus tollantur, ex quo dilecti Subditi nostri in dictis Cur' nostris negotia habentes non ulterius per hujusmodi extortiones vel exactiones onerentur aut graventur quæ de tempore in tempus magis augeantur, nisi remedium opportunum & idoneum citius apponatur: Sciatis igitur quod Nos pro meliori performatione beneplaciti nostri in hac parte, fidelitati, discretioni & integritati vestris plurimum confidentes assignamus vos, tres, vel plures vestrum

strum Comissionarios nostros & vobis tribus vel pluribus vestrum tenore præsentium plenam potestatem, & auctoritatem damus & concedimus ad inquirend. tam per sacramentum probor' & legalium hominum dicti Regni nostri Angliæ, &c. per quos rei veritas melius Sciri poterit & inquireri per testium depositiones, ac per omnes alias bonas vias modos & medios qualescunque per quos veritatem explorare melius sciveritis aut poteritis, quot, quæ & qualia Officia usitat' tenebantur ac exercebantur in anno Regni Elizabethæ nuper Reginae Angliæ undecimo aut ullo tempore abinde (int' al.) in Cur' ad placita coram nobis tenend. &c. quot quæ & qualia feoda pecuniar' summa aut summæ in dicto anno undecimo Regni Reginae Elizabethæ prædict' usualiter & legitime capt' recept' vel habita fuer' per Judices, Justiciar', Comissionar', Consil. Jurisconsultos, Causidicos vel Offic' aut eor' Deputat' vel Clericos, Registros, Attornatos vel Solicitatores, de vel in præd. Cur' temporalibus & qualibet earum vel ad easdem spectan', &c. Et denique est Regalis nostra voluntas & in mandat' præcipue damus & per præsentis concedimus quod omnia & singula processus, progressiones, revelationes, disquisitiones, Inquisitiones, Depositiones testium sacram' Jurator' ordina-

tiones & omnia alia acta quaecunque capta,
 habita, facta vel executi, virtute, vi seu
 tenore duar' prior' Commissionum consimi-
 lis tenoris in diversis rebus cum his præ-
 sentibus, quarum una concessa fuit per
 præcharissimum patrem nostrum præd. sub
 magno Sigillo Angliæ geren' dat' octavo
 die Martii in anno vicesimo Regni sui
 Angliæ, & altera fuit concessa per nos
 geren' dat' vicesimo octavo die Junii
 in anno tertio Regni nostri Angliæ &
 omnium aliarum ejusmodi Commissionum
 exinde concessarum pro Consilii inquisitio-
 ne de exactionibus, extortionibus, inno-
 vatis Officiis & aliis rebus sicut per eas-
 dem plenius liquet & appareat erunt in
 omnibus & ad omnes effectus, proposita,
 intentiones & constructiones qualescunque
 valida & legalia ac ejusdem virtutis cum
 processibus, progressionibus, revelationibus,
 disquisitionibus, inquisitionibus, deposi-
 tionibus test' Jurator' sacrament', ordina-
 tionibus, & omnibus aliis actis quibuscun-
 que quæ virtute & tenore presentium ca-
 pientur, fient, habebuntur vel exequentur,
 Et quod hæc Literæ nostræ Patentes ad
 omnes effectus, proposita & intensiones
 tam benigne plene & ample construentur
 quam nos easdem tenore presentium in-
 tendimus & præcise esse volumus; In
 cuius rei, &c. Teste Rege apud Westm'
 secundo

*secundo die Februarii Anno Regni Regis
Caroli quinto,*

per ipsum Regem.

And here you see by this Commission that the Commissioners therein named or any three or more of them, were to inquire and inspect into the Offices and Fees of all the Courts of this Kingdom and *Wales, &c.* what Fees were taken therein in and since the eleventh year of *Queen Elizabeth*, and to make use of what former proceedings had been made in the like nature by virtue of two former Commissions, the one granted by his Father, King *James*, in the twentieth year of his Reign, and the other in the third year of his own Reign, as a rule and direction for the said Commissioners to walk by; by virtue of which Commission there was a presentment made the very next year following, for it bears date the two and twentieth day of *April, Anno Dom. 1630.* which was *sexto ejusdem Regis*, of all the Officers in this his then Majesty's Court, and of the Fees due and belonging to such Officers, as may appear long since printed (all but the Crown-Office Fees, and somewhat by way of

Preface before the said presentment, and somewhat by way of conclusion toward the end of it) both in the *Compleat Attorney* and *Compleat Solicitor*, Books that have been permitted without recall for many years to walk abroad in the World (certainly not to misguide, but) for instruction in the practick part of the Law; and truly, but that I was very unwilling to dismember the said Presentment in regard of the use that may be made of it, else I would have left out some of the Fees that I do admit are inserted in those Books, but not in so plain and easie a method as in this.

* Note, As to the Filizer's Fees those Books and this Presentment do agree in most particulars.

* In which said Presentment and Books before mentioned the *Filizer's* Fees of this Court, not onely for Writs and Process but for entring of Issues, (among other things) are plainly inserted: And although it be certain there was such a Presentment made, yet it cannot be at present so positively proved or made out as the Commission aforesaid (by which it was taken) is, that being inrolled, but this (as is feared) never was inrolled in this Court, as it ought to have been, and as in the like nature it was done in the Court of *Common-Pleas*, upon another Commission hereafter menti-

mentioned, (some years after) as to the Fees of that Court; but what reason there was for the omitting the inrollment of it in this Court I cannot determine, but leave the Reader to judge as he pleaseth; neither is it to be found affiled to the Commission it self, in the Chapel of the Rolls, nor remaining in the Petty-bag Office in the Chancery, but (as it is believed) the original Presentment it self of all the Courts whatsoever might be left in the hands of some of the Commissioners themselves, and so never return'd into the high Court of *Chancery*, out of which the Commission issued; but that onely some abstracts have been taken out of it by the proper Officers of the severall Courts concerned therein, and so the same have been heretofore hung up under the then Judges hands in some of the great Offices of each Court. And that such a Table of the Fees of the Officers of this Court, was heretofore hung up in the *King's-Bench* Office in the *Temple* was lately proved by an eminent and ancient Attorney of this Court and one of the Clerks of the Office, as before is said they are commonly called for distinction sake, that is to say, a Clerk to the now Chief-Clerk,

Clerk, upon a late Trial at the Barr in this Court between one of the *Fili-
zers* of this Court and the said chief Clerk, about the right of entring Issues by Original; it is true he could not swear that he had examined his own copy he then produced with the Table that did heretofore there hang up, not knowing that ever he should have had occasion to have proved it a true copy, but did swear then that he had many years since seen such a Table hang up there in a Frame in that very Room where Mr. *Hoddesdon*, a former Secondary of this Court, sat to sign Judgments, and (as he said) it was believed it was burnt in the late dreadfull fire of *London*, *Anno Dom.* 1666. and it is most likely it was so, if not lost in removal or some other way or means destroyed or else concealed; But to prove that there was such a presentment (as well as it may) by what footsteps there are of such a thing, and then when that is done it shall be left to the unprejudiced Reader to judge as to the veracity of it as he thinks good, to which end let us go back a little to that Attorney's evidence before given, who said he had his copy (then produced) from one that was his Master, one Si-

mon Harborne, one of the Clerks to the then chief Clerk, and who was one of the Attorneys that presented it upon oath, as you may observe by it; besides there are (at this time) at the least thirty several copies in manuscript now kept by several Clerks of the Office, many of which I have seen, and to what end they have kept them, and what esteem they have for them, or what use they have made of them is best known to themselves, but certainly the pains was very great in transcribing of them, and therefore may be presumed was intended for some use, as to make their Bills by for their Clyents, and the like: The copy of which said Presentment followeth in these words,

WE whose Names are hereunto subscribed, being sworn before his Majesty's Commissioners for enquiry of new erected Offices and exacted Fees, &c. to enquire and according to our knowledge to give true information to his Majesty's said Commissioners, concerning Offices and Fees in his Majesty's Court of *King's-Beech*, do inform and certifie upon our said oaths as followeth, the 22. day of *April*, Anno Dom. 1630.

What

What Offices were exercised or what Fees were taken in the same Court in the eleventh year of Queen *Elizabeth*, we cannot tell, for that our knowledge or memory extendeth not so far by many years, neither have we any direct or certain means to inform our selves thereof; but the Offices and Fees that in our memories have been exercised and paid in the same Court, and all such as have been innovated and newly erected in the same Court in our memories are here particularly set down.

First, Concerning Officers.....

1. The Clerk of the Crown', Sir *Thomas Fanshaw*, Kt.
2. The Prothonotaries or chief Clerks, *Robert Henley* and *Samuel Wightwick*, Esquires.
3. The *Custos Brevium* or Clerk of the Treasury and *Nisi prius*, *Robert Dewhurst* and *William Mason*, Esquires.
4. The Marshall, *Henry Mordant*, Esq;
5. The *Filizers* of the several Counties.
6. The Crier and Porter, *Ralph Featherston*.
7. The

7. The Sealer of Writs, *Robert Killigrew*, Kt.
8. The Receiver of Fines, *Henry Mor-dant*, Esq; is a new Officer.

Concerning Fees; and first, Of the Clerk of the Crown.

THE Clerk of the Crown hath, during our memory, had divers Clerks to doe the business of his Office, which have been called the Clerks of the Crown Office, which Clerks have always, during our memories, been Attorneys in the Court of *King's-Bench*, and the Clerks of the *King's-Bench* have always, during our memories, been Attorneys in the Crown Office.

The Fees taken by the Clerk of the Crown and his Clerks during our memories respectively.

Imprimis, **F**OR every person indicted upon any offence, as well criminal as others, for the plea of Not guilty, *Clerks of the Crown Office.*
 And upon information for the like plea,
02s. 00d.
02 00
 Whereof

Whereof to the Master of the Office,

01 08

And to the Secondary,

00 02

And to the Clerk for entring it,

00 02

And for every *Venire fac'* upon the plea

Not guilty,

02 00

Whereof to the Master,

01 08

And to the Secondary,

00 01

And to the Clerk for making it,

00 03

And of every person for the continuance of every matter upon indictment or information after issue joined for every Term,

02 00

Item, For every inrollment in a *Quo Warranto*, for every Roll,

13 04

And as much for the exemplification, if the party desire to have it exemplified the same Term that it is entered, and if it be exemplified after that Term, the Fee belongeth to the *Custos Brevium*, and not to the Clerk of the Crown.

And for every Mark received by the Clerk of the Crown, the Clerk for entry is allowed (and weekly paid his commons),

01 00

Item, For every traverse which cometh out of the Court of Chancery and is enrolled, for every Roll,

13 04

Whereof to the Clerk for entry,

01 00

Item, For every other inrollment of any Patent,

Patent, Grant or otherwise, for every Roll, 06 08

Whereof to the Clerk for entry, 00 06

Item, For all special pleas pleaded unto an indictment or information, and also of all replications or rejoinders, for every Roll, 13 04

But this hath not been usually paid by the Roll, but according to the length of the plea in paper, as near as could be guessed by the same proportion.

Item, For every special pardon pleaded and allowed for Felony for entry of the Indictment, 06 08

And for entry of the plea, the pardon, the Writ of allowance, and the judgment thereupon, for every Roll, 13 04

Whereof to the Clerk for every Noble 6d.

And for Gloves for the Judges and other Officers of the Court, 13 04

All persons of quality use to give Gloves of such value and goodness as they please.

Item, For the plea of every pardon of course and entry of the pardon, 13 04

And for Gloves, 13 04

Item, For entry of a Writ of error in Felony, 02 00

Whereof

Whereof to the Clerk for entry, 2d.
 To the Secondary for examination, 2d.
 And for entry of the Indictment, 06 08
 Whereof to the Clerk for entring, 6d.
 For entring of every error assign'd, 2s.
 Whereof to the Clerk and Secondary,
 00 04
 For the Bayl in Court. 05 00
 To the Marshal and Crier, 00 08
 To the Writer for making the Bayl,
 00 04
 To the Clerk that is towards the cause,
 01 08
 For the entry of the judgment of rever-
 sal of every outlawry or indictment
 in Felony, 06 08
 And for Gloves, as for the allowance
 of a special pardon. 13 04
Item, For the entry of an Indictment
 upon a Writ of Error, where the
 Indictment is not Felony, 04 00
Item, For the entry of the Writ of Er-
 rour, Exigent and Return, assign-
 ment of Errors, Reversal and Bayl,
 the Fees are as in the case of Felo-
 ny.
Item, For the Clerk's pains in drawing
 of the Errors, according to the
 length thereof, and the labour be-
 stowed therein, 3s. 4d. or, 5s. &c.
Item, For every Imparlance upon In-
 dictment,

dictment, or other causes, (except
Quo Warranto) for every one,

Whereof to the Clerk of the Crown,

To the Secondary and Clerk for examination and entry,

To the Attorney towards the cause,

And upon every Imparlance upon a
Quo Warranto,

Whereof to the Clerks for entry,

And the Attorney towards the cause
hath

And for the dismissal of every person,
upon Indictment for Felony, for insufficiency,

Whereof to the Clerk for entry,

Item, For the dismissal of every person upon indictment of Riot, Forcible entry, Trespass and such like,

Whereof to the Clerk of the Crown.

To the Secondary,

To the Marshal and Crier,

To the Clerk for drawing the dismissal, and for entering the Roll,

Item, for every fine the party maketh
upon an Indictment

P

Whereof

Whereof to the Clerk of the Crown,

01 08

To the Secondary,

00 04

To the Marshal and Crier,

00 08

To the Clerk for making the Fine bill,

00 04

To the Attorney towards the cause,

01 08

Item, For the Fine upon an information for the King's part, where the Informer hath compounded for his part,

11 00

To the Master,

09 08

To the Clerk for drawing the Protestation,

01 00

The Warrant of Attorney,

00 04

Item, For the entry of every cognition to any Nufance for High-ways and Bridges, and for the Writ of *Constar' fac'* thereupon,

09 04

Whereof to the Clerk of the Crown,

06 08

For making of the Writ,

00 04

For making the Fine bill,

00 04

To the Secondary for giving over the Judgment,

00 04

To the Clerk towards the cause,

01 08

Item, For the entring of every *Postea* which comes from the Judges of Assize, and the judgment thereupon,

08 00

Whereof

Whereof to the Clerk for entry 6d.
 And the like for every Verdict and
 Judgment upon any trial at the Bar,
 except special Verdicts, which are
 paid according to the length of eve-
 ry Sheet, 00 08

Item, For the entry of the submission
 of every Recusant, his plea and judg-
 ment thereupon, 13 04

Whereof to the Clerk for entry, 01 00

Item, For every person bound by re-
 cognisance for the Peace, Good be-
 haviour, or Felony, who dieth be-
 fore day of appearance, upon which
 the Sureties plead his death, for the
 Plea, drawing and entring the Judg-
 ment, and the Clerk's Fees, 15 04

Whereof to the Clerk for drawing and
 entring of the plea, 04 04

Item, The Clerk of the Crown (who
 is the King's Attorney in that Court
 by Patent) hath also upon his con-
 fession upon deposition of Witnesses,
 06 08

Item, For every one that is discharged
 for any debt due to the King for any
deodand, Felon's goods, or the like,
 04 08

Whereof to the Clerk of the Crown,

To the Secondary,

To the Marshal and Crier, 01 00 08
 To the Attorney towards the cause,
 And where the Debt is discharged by
 any Letters Patent or allowance up-
 on a former *Quo Warranto*, 06 08
 For exhibiting every information,
 Whereof to the Master, 03 04
 To the Clerk for making the Informa-
 tion and Writ, 02 04
Item, For an appearance upon informa-
 tion, 01 00
 Whereof to the Master, 03 04
 To the Poor, 02 04
 To the Book bearer, 00 01
 To the Secondary, 00 01
 To the Clerk for entring the appea-
 rance, 00 04
Item, For every copy of any informa-
 tion, or any pleas, the parties pay
 for every Sheet, 00 08
 Whereof to the Clerk for every Sheet
 writing, 00 02
Item, For copies of Indictments of Tre-
 spass, Riot, Force or the like, if it
 be but short, 02 00
 If it be of any length above two Sheets,
 03 04
Item, For every copy of Indictment in
 Felony, 06 08
Item,

Item, For the Inrolment of every Writ
of *excommunicat' capiend*. 02 04

To the Master, 02 00

To the Secondary, 00 04

To the Attorney also in the cause,
03 04

Item, For every *Capias* sued out upon the
Writs of *excom' capiend*, 02 06

All which is paid to the Master of the
Office, and the Clerk hath the At-
torney's Fee in regard the Writ is
very long, 03 04

Also the Attorney that appeareth or
doth any act in Court for any De-
fendant, hath as in all cases at the
common Law for his Fee, 03 04

And in *Quo Warranto*, traverse of Lands
Writs of error in Felony being ex-
traordinary cases and but rare,
06 08

Item, For drawing of all Pleas, Repli-
cations and Rejoinders, &c. upon
Quo Warranto, for every Sheet,
01 00

And for drawing all other Pleas, Repli-
cations, &c. for every Sheet, 00 08

Item, For every Writ of Peace or good
behaviour, 04 07

To the Master of the Office, 01 08

To the writer of the Writ and War-
rant, 00 08

To the Attorney towards the cause,	01	08
To the Secondary,	00	01
To the Under-clerks,	00	06
<i>Item</i> , For the <i>Supersedeas</i> for the peace or the good behaviour,	06	00
To the Master for the Recognisance,	01	08
To the Secondary,	00	04
To the Master for the Writ of <i>Superse-</i> <i>deas</i> ,	01	08
To the writer of the Writ and Recog- nisance	00	07
To the Secondary for signing the Writ,	00	01
To the Attorney towards the cause,	01	08
For every attachment in contempt a- gainst any person,	04	00
To the Master of the Office,	01	08
To the Clerk,	01	08
To the Maker of the Writ and War- rant,	00	07
To the Secondary,	00	01
<i>Item</i> , For every Bail taken for appea- rance,	04	00
To the Master of the Office,	01	08
To the Secondary,	00	04
To the writer for making it,	00	04
To the Attorney towards the cause,	01	08
<i>Item</i> ,		

Item, For the discharge of every person
upon any Bail of the Peace, Good
behaviour, Contempt, or any other
Bail, 04 00

To the Master of the Office, 01 08

To the Secondary, 00 04

To the writer for making the Warrant
for discharge, 00 04

To the Attorney towards the cause,
01 08

Item, For every *Certiorari* for remo-
ving Indictments, Informations, Pre-
sentments, or any other Record,

04 00

To the Master of the Office, 01 08

To the Secondary, 00 01

To the writer of the Warrant and Writ,
00 07

To the Attorney towards the cause,
01 08

Item, For every *Certiorari* in Felony,
the same Fees, onely the Attorney
hath over and above the former, his
Fee of 03 04

Item, For every *Supersedeas* of the
Peace coming out of the Chancery
and allowed in the Court, 04 01

Whereof to the Master, 02 00

To the Secondary, 00 05

To the Attorney towards the cause,
01 08

Item, For the Bail of every person that
is brought in upon any *Habeas Cor-*
pus, 05 02

Whereof to the Master all, except the
Secondary, 00 04

To the Marshall and Crier, 00 08

To the Clerk for making the Bail, 4d.

Item, For every *Capias utlagat' special.*

sued out against any person, 04 00

To the Master of the Office, 01 08

To the maker, 00 03

And the Secondary for signing, 00 01

To the writer of the Writ and Warrant,

00 07

To the Secondary for signing it, 00 01

To the Attorney towards the cause,

01 08

These for the most part are made
without Fee.

Item, For every Writ to remove Pri-
soners out of any County to receive
trial in another, 04 00

Divided as *Certiorari* and *Habeas*
Corpus are, but most of these are made
without Fee *pro Rege*,

Item, For every Writ of *Procedend.*
upon a *Certiorari* and *Habeas Cor-*
pus, 04 00

Item, For every Writ of *Duces tecum*
upon the Return of the Sheriff that
the party is *languidus*, 04 00

Divi-

Divided as the *Habeas Corpus*.

Item, For every Writ *De gestu & fama*,
04 00

Divided as the *Certiorari*.

Item, For every *Supersedeas* granted
upon an Indictment, or other matter,
in case where any person is in exigent
to the keeper of the Calendar, if the
party make Fine for every name, 6*d*.
Or otherwise to the Secondary, 00 06

Item, For every *Supersedeas* granted
upon any Indictment, if the party
do not make Fine, then the Secondary,
00 06

Item, For every *Supersedeas* for any
person, upon any Indictment of Fe-
lony where the party is in exigent,
01 08

To the maker of the Writ, 00 03

To the Secondary, 00 01

Item, For every Writ of restitution to
restore a Man to his Lands, Goods
or Chattels upon any cause, 06 08

Whereof for ingrossing of the Writ,
00 06

Item, For entring the same upon the
Roll, 01 00

Item, For every Writ of *Supersedeas*
upon a former restitution wherein
the Lands are to be reseized again
upon the insufficiency of the Indict-
ment,

ment, the Master of the Office hath,

Of which the Ingrosser of the Writ hath

Item, For every Writ of seizure of Liberties,

Whereof to the Clerk for making the same,

Item, For every Writ of *Mittimus* of a Record transcribed into the Court of Wards or Exchequer,

Whereof to the writer of the Writ,

And for the Transcript according to the length of the Record by the Roll,

Item, For every Writ of Execution, namely, *Capias ad satisfac'*, *Fi. fa'*, or *Elegit*,

Whereof to the writer of the Writ,

Item, For every Writ of *Non molestand.* granted upon Pardon pleaded, or Outlawry reversed,

Whereof to the writer of the Writ,

Item, For every *Scire Facias* sued out by any person for breach of the peace or behaviour,

To the Writer thereof,

Also to the Clerk for drawing the Surmise

mise or breach to the length thereof.

Item, For every *Scire facias* in Felony,
Diminuc' immediat', &c. 06 08

Whereof to the Writer, 00 06

Item, For every *Subpœna ad testific'* attachment upon Information or other ordinary Writ, 04 00
Divided as the *Habeas Corpus*.

Item, For a *Ve. fa. de novo* upon a traverse out of the Chancery, which is very rare, 06 08

Whereof to the writer, 00 06

Item, For entring of every Rule given in Court, 00 04

And no more for the Copy unless it be of extraordinary length, which is very rare.

For examination upon Attachments of Contempt we do not know what hath been anciently taken by reason of the fewness of them, but of late there hath been taken the Fee of,

03 04

And for the Copies of examinations by the Sheet, 00 08

Item, For entring and making a Copy of a licence to the Informer to compound with the Defendant upon any penal Law, 01 00

Besides the Judges Fee, 02 00

Item, .

Item, For every *Distringas* upon a plea
of Not guilty, upon Indictment or
Information, 02 04

To the Master, 01 08

To the Secondary, 00 01

To the writer, 00 03

For the delivery of the Writ upon Re-
cord, 00 04

The Master of the Office hath from his
Majesty onely the annual Fee of

10 08 00

For the search for every Term, 00 04

For a *Jeavous prie* for every Clerk for
every Term, 00 07

Item, There hath been allowed by the
Seal of the *King's-bench* to the Clerks
of the Crown Office at the end of
every Term a Breakfast, which they
have of late not performed but alto-
gether omitted.

For entring and estreating every Rule
betwixt party and party from the
King's Bench into the *Exchequer*,

01 00

The Prothonotaries, or chief Clerks,
have always, during our memory, had
as many Clerks as it pleased them to
doe the business of their Office, which
said Clerks are called Clerks of the Of-
fice, and so soon as they are admitted
Clerks

Clerks of the Office they are Attornies
and have been always during our me-
mories in the same Court.

*The Fees paid to the Prothonotaries or
chief Clerks and their Clerks during
all our memories respectively.*

For Writs.

For the <i>Latitat.</i>	05	01	<i>The Protho- notaries.</i>
Whereof is paid to the Secondary for			
the Prothonotaries,	01	10	
To him for the Judges,	00	08	
For the Clerk that writeth it,	00	01	
For the Attorney's half Fee,	01	08	
For the Seal,	00	07	

*The Supersedeas,
Exigent in appeal,
Ve' fa' in appeal,
Distringas in attaint',
Habeas Corpus,
Certiorari,
Procedend.
Elegit,
Subpæna,
Retorn' habend.
Withernam,
Second deliverance,
Restitution,*

*Pro quolibet
Magistro Offic'
1s. 8d.*

Scire

Scire facias,
Diminuc' brev.
Libello habend. brev.
Prohibition,
Consultation,
Proprietat' proband.
Distringas ad deliberand. rem de-
tent.
Distringas ad inquir' pro valore,
Resummons,
Reattachment,
Ven' fac' in audit' querel. versus par-
tem,
Habere fac' seisinam & possession',
Respond. in attaint',
Vendic' exponas,
Brev' excommunicat',
Brev' de Mittimus,

Pro quolibet Magistro Offic' rs. 8d.

All these are accountable to the Protho-
 notaries, viz. for every one, 02 00
 Out of which they allow the Clerk for
 writing, 00 04

The <i>Ven' fac.</i>	<i>Averment versus</i>
<i>Distringas Fur',</i>	<i>Vic',</i>
<i>Alias and Plur' Cap',</i>	<i>Fieri fac',</i>
<i>Capias ad satisfac',</i>	<i>Testat',</i>
<i>Inquir' de dampn',</i>	<i>Distringas nuper</i>
<i>Habeas Corpus su-</i>	<i>Vic',</i>
<i>per ce' Corpus,</i>	<i>Non omit.</i>

For

For every one of these besides the seal,

00 06

And for every *Deliberant' de record*,

00 04

And for the *Jurat* of the *Distringas* of

Nisi prius,

00 04

But all these, during our memories,
have always been allowed to the Pro-
thonotary's Clerks, and are not ac-
counted for to the Prothonotaries.

Damages Clear.

In every Action wherein the Plaintiff
recovereth damages to the value of
13*l.* 6*s.* 8*d.* or above, he payeth to
the Prothonotaries after the rate of
1*s.* in the pound for damages clear
when his Judgment is signed.

*Fees due and received by the Prothono-
taries and their Clerks for Entries.*

For every Deed how short soever, 2*s.*

For every Action of Trespass, 01 00

For every Not guilty, 01 00

For every Justification in Trespass,

02 00

For every Replication, 01 08

For every Action *super casum*, not a-

bove three Sheets, 02 00

For

For every general Issue to it,	01	00
For every <i>Ejectione Firme</i> ,	02	00
For every general Issue to it,	01	00
For a Declaration in appeal,	02	00
For general Issue for every Defendant in appeal,	02	00
For every Recognizance <i>super hab' Corp'</i> for every Defendant severally,	2s.	
For every Deposition upon a Prohibition,	02	00
For every Judgment by <i>circumstant'</i> ,	04	00
Out of which the Clerk is allowed,	00	08
For every other Judgment,	02	00
Whereof the Clerk is allowed,	00	04
For every Dismission,	02	00
For every commission in Execution,	2s.	
For every Satisfaction,	03	00
For every <i>comparenc' recordat'</i> ,	02	00
For every <i>Non pros'</i> ,	02	00
For every Action of Debt, Detinue or Accompt,	01	00
For every general Issue thereunto,	01	00
For every conditions performed,	2s.	
For every Replication to it,	01	00
For every <i>script' dedit' & pro Custod.</i> <i>script.</i>	02	00
For every Justification in Battery,	02	00
For		

For every <i>Audit' querel.</i> how short so-		
ever,	02	00
For every special Imparlance,	02	00
For every general Imparlance upon the		
plea Roll,	01	00
For every Defalt upon record,	02	00
For every Suggeſtion upon a Prohibi-		
tion, how ſhort ſoever,	02	00
For every Recogniſance to it,	02	00
For every writ of Errour how ſhort ſo-		
ever,	03	04
For entring the Errours,	02	00
For entring in <i>nullo eſt errat'</i> ,	02	00
For every Diminution,	02	00
For abatement of a Writ of Errour and		
licence to bring a new,	02	00
For entring the ſame,	02	00
For every Recogniſance ſingle or with		
Condition,	02	00
For every Inrollment whatſoever lon-		
ger than three Sheets,	06	08
After the rate for a Roll on both ſides,	06	08
Or half a Roll,	03	04
For every Bail by Recogniſance,	02	06

*The Fees for pleading received by the
Prothonotaries Clerks, due to them-
selves as Clerks and Attornies.*

*The Prothono-
taries Clerks.*

- For their Fee in every cause for every
Term, as Attornies as well in the
Crown Office as in the Prothonota-
ries Office, 03 04
For their Fee also at every *Nisi prius*,
and at every inquiry for damages,
03 04
For their Fee in every Appeal, Assize
and Attaint, every Term, 06 08
For drawing every Declaration in Debt,
Detinue, Trespass, Accompt, &c. not
exceeding one Sheet, 01 00
If more than one Sheet, every Sheet, 8d.
For drawing every Action upon the
case or covenant how short soever,
03 04
For drawing every *Ejectione Firme*,
02 00
For drawing every Declaration in *E-
jectione Firme* Covenant and upon
the case, being above three Sheets,
for every Sheet, 00 08
For ingrossing in Parchment every
Sheet, 00 04
For drawing every Surmise upon a Pro-
hibition,

hibition, for every Sheet, 01 00
 For drawing all special Pleadings and special Writs, for every Sheet, 00 08
 For the copy of every Declaration, Plea, or other thing, for every Sheet, 00 04
 For the continuing of every cause every Term, 00 04
 For entring of all things above three Sheets, for every Sheet, 00 08
 Out of which they pay to the Prothonotaries after the rate of a full Roll on both sides, 06 08
 And for a half Roll, 03 04
 For entring of every Judgment with *Circumstant*’, 05 00
 Whereof is paid to the Prothonotaries, 03 04
 For every other Judgment, 03 00
 Whereof is paid to the Prothonotaries, 01 08
 For making every Bail, 00 04
 For making every Bill of *Middlesex* every *Distringas nuper Vic*’ and *Habeas corpus super Ce’ corpus per prec*’ thereupon, 00 08
 For making every *Habeas corpus ad fac*’ and *Habeas corpus cum pri’ certior’ procedend. elegit* and *habere fac’ possession’* besides the 4d. allowed by the Prothonotaries, 01 08

For every Sheet of every Declaration,
or other Pleading recited in a Writ
of Damages, 00 04

For every Sheet of any Suggestion, De-
claration or other pleading recited in
a Writ of Prohibition or Consultati-
on, or any other Writ, 00 04

For the entry of every *Scire facias*,

01 00

Every Clerk of the Office and their
Clerks have allowed them at the end of
every Term from the Seal one Writ
sealed, not paying any thing, called
Jeavous Prie.

Every Clerk of the Office upon his
accompt to the Master of the Office at
the end of the Term for every Pound
he payeth is allowed 1s. which is ter-
med *pro regardis*.

*Paid to the Keeper of the Seal for Bills
of Middlesex at our first knowledge.*

The Keeper of
the Bill of
Middlesex
Seal.

For the sealing of every Bill of *Middle-
sex*, from the *Essoin* day untill the
continuance day, 00 06

From the continuance day untill the next
essoin day, 00 10

For sealing every *Alias* and *Plur'* Bill,
every *Habeas corpus super Ce' corp'*
and

and every *Distringas* thereupon *per*
prec', 00 01

But now about ten years last past he taketh from the very day the Term ended unto the very day the Term beginneth, 00 10

And for every *Alias* and *Plur'* Bill, *Habeas Corpus* and *Distringas*, 00 02

The Seal of the Attachment, 00 01

The Seal of the *Cap'*, 00 01

The *Post diem* of the Attachment, 4d.

The *Post Terminum* of the Attachment, 00 08

For the Seal of a *Distringas versus* Freeholders, 00 01

Fees received by the Secondary.

For taking the acknowledgment of a *Secondary*.

Deed in Court, 01 00

For signing costs upon every Judgment by confession, *Nihil dic'*, Verdict and Demurrer, 01 00

Also, for acknowledgment of every Deed, for every Judgment pronounced in open Court, every Rule to alter a *Visne*, for every Rule for an Attachment, Prohibition, Consultation, &c. he receiveth for the Poors Box, 01 00

For allowance of a Writ of Errour <i>co-</i> <i>ram nobis residen'</i> ,	02	00
Whereof to the Box,	01	00
For the Allowance of the Writ of <i>Au-</i> <i>dita querela</i> ,	02	00
Whereof to the Box,	01	00
For the common Bail,	01	02
For a special Bail upon <i>Habeas Corpus</i> or a <i>Certiorari</i> upon Attachment,	04	10

*Fees received by the Secondary for
the Judges.*

<i>Judges.</i>	For every <i>Habeas Corpus ad fac' & ret'</i>	04	00
	For every <i>Procedend.</i>	04	00
	For a <i>Certiorari</i> to remove a foreign Attachment,	04	00
	For a <i>Procedend.</i> thereupon,	04	00
	For every <i>Habeas Corpus cum Privile-</i> <i>gio</i> ,	03	00
	And out of the said Fee of the <i>Lat'</i> is accounted and paid to him for them,	00	08

Fees received by the Judges Clerks.

*Judges
Clerks.*

Every Judge's Clerk taketh for every
Warrant for an *Habeas Corpus* and
every

every other thing whereunto the
 Judge putteth his name in the Term
 time, 01 00
 And in the Vacation, 02 00
 Also he taketh for the acknowledgment
 of a Deed before a Judge, which he
 saith is for his Master, 06 08
 And for taking of the Depositions of
 Witnesses upon a suggestion, for a
 Prohibition for every Witness,
 06 08
 He taketh more for his own Fee for
 the acknowledgment of a Deed,
 02 00
 He taketh also for his own Fee for e-
 very Witness to prove a Suggestion,
 02 00

Counsellour's Fees

Are not certain to our knowledge but *Counsellours.*
 they usually take for their Fee for
 every cause ordinarily, 10 00
 If they receive more it is of their
 Clients free gift and not exacted to our
 knowledge.

Sergeants at Law do likewise prac- *Sergeants.*
 tise in this Court, and they take some
 10s. for a Fee, some 20s. or more, as
 Q 4 their

their Clients will give them, and according to the pains they take, but the certainty of their Fee we know not.

The Fees paid to the Clerk of the Papers now, who hath been during all our memories one of the Prothonotaries Clerks and appointed by him, and is now exercised by John Hill and John Woodward.

*Clerks of the
Papers.*

*Clerks of the
Papers.* For the copying of special Pleas, for e-
very Sheet, 00 04

For making a paper Book either Issue
or Demurrer, for every Sheet,

Other sums of Money taken by the said Clerk of the Papers.

For entering in his Book every Record
to be read, OI OO

For entering in his Book every cause
to hear counsell at every time,

For entering every Trial at Bar, 01 00

Which have been taken by the now Clerks of the Papers about six years, and about fourteen years before by the former Clerks.

Fees

Fees paid all our memories to the Clerk of the Rules, being one of the Prothotaries Clerks, and is now exercised by Nicholas Pluncket.

For entring every Rule except general *Clerk of the Rules.*
Rules for answer, 00 04

For a copy of every Rule, 00 04

For every general Rule for answer being in number above three, 00 02

Other Sums of money taken by the said Clerk of the Rules, which he now disclaimeth.

For every Rule given in Court, with a copy for a Prohibition or Consultation he taketh 1s. whereas the due is but 8d. which hath been taken not above five and twenty years,

00 08

For every Rule, with a copy given in Court the last day of the Term, he taketh 1s. whereas the due is but 8d. which hath been taken two or three years,

00 08

For every copy of every Rule after the continuance day he taketh 8d. whereas the due is but 4d. which hath been

been taken two or three years, 4d.

Also such *Affidavits* as are read in Court he claimeth these two years, or thereabouts, to have the keeping of them, and taketh for copies both of the Plaintiff and Defendant at his own discretion, which formerly hath not been.

The Keeper of the Postea's, which is also one of the Prothonotaries Clerks.

He hath for the receiving, making and delivery of every *Postea*, 00 04

The Keeper of the Files of Declarations.

*The Keeper of
the Declara-
tions.*

In times past the Keeper of the Files of Declarations for every search did use to take for his pains in the keeping and filing of Declarations for every search after the second Term, 4d. but now by a general consent for the receiving, filing, pying and shewing the Files to the *Filizers* and Clerks he is allowed for every Term of every *Filizer* and Clerk of the Office, 2s. and this hath continued thirty years or thereabouts,

02 00

Laurence

Laurence Coldham, one of the Secondaries Clerks, for his pains and care in making and keeping the remembrance of the Entries, and for severing and filing of writs, &c. he receiveth of every fellow Clerk of the Office upon his account every Term as a gratuity,

Walter Carpenter, one of the Secondaries Clerks, for entering notes of the Writs made in the Term time into Rolls of Parchment, every Term every Clerk of the Office giveth what he pleaseth.

William Roper, one of the Secondaries Clerks for entering the common Bails into Rolls of Parchment, every Term every Clerk of the Office giveth him what seemeth good to himself.

Roger Tardly, one of the Secondaries Clerks, for carrying the Rolls of the Writs to the Hall and Office in the Term time, every Clerk of the Office giveth him what he pleaseth.

The *Custos Brevium* hath always had divers Clerks to doe the business of his Office, which are called the Clerks of the *Nisi prius* Office.

*Fees paid to the Custos Brevium and
his Clerks during our memories.*

Custos Bre- vium.	For every Record of <i>Nisi prius</i> in a short action of Trespass,	04	06
	For every other action how short soe- ver,	05	00
	For every full Press of <i>Nisi prius</i> or <i>mittimus</i> ,	06	00
	For every <i>Nisi prius</i> on the Crown side,	06	08
	For every full Press there,	06	08
	For every <i>Nisi prius</i> upon an indict- ment of Murther for every Name that pleadeth to Issue,	06	08
	For every short exemplification in Tre- spass,	10	00
	For every Exemplification containing a large Skin,	01	00 00
	For the like in the Crown side,	02	00 00
	For every Exemplification in <i>Ejectione Firme</i> ,	13	04
	For filing a Writ being a <i>Post diem</i> on the <i>Angl.</i>	00	04
	For a <i>Post Terminum</i> at any time after the first week ended in the second Term,	01	08
	For every Warrant of Attorney in Mur- ther,	01	00
	For		

For every Sheriffs Warrant,	00	08
For every other Warrant of Attorney,	00	04
For every search for a Roll for ten years last past,	00	06
For every search for the same of above ten years last past,	03	04
For search for Rolls for the six last Terms,		
For search for every File of Declarati- ons, Bails, Judicials and other Writs after ten years,	01	04
For the copy of every Sheet between party and party,	00	04
For the copy of a Deed inrolled, for e- very Sheet,	00	08
For a copy on the Crown side, for e- very Sheet,	00	08
For a File of the <i>Angl.</i> for every Term after one Term,	00	04
For the copies of every Writ or Appeal, every Sheet,	00	08

*Fees now paid to the Custos Brevium his
Clerks to be referred to the Table
shewed us of Fees.*

For the writing of every <i>Nisi prius</i> or <i>Custos Bre-</i> <i>Mittimus</i> , being but one Press, <i>vium his</i> <i>Clerks.</i>	01	06
For		

For every Press more than one, 01 00
 For writing every Exemplification in
 Trespass or Ejectment, 03 04
 For writing of every large Skin of
 Parchment exemplified, 06 08
 The Fees for writing every *Nisi prius*
 and *Mittimus* were very uncertain
 untill about *Anno secundo Jacobi Re-*
gis, and then it was ordered by the
 Judges that the Clerks should have
 for writing of the first Press,

01 06
 And if more, then for every other
 Press, 01 00

And every full Press to contain sixty
 lines or thereabouts.

The *Custos Brevium* and his Clerks
 take the whole Fees for every Press,
 and yet there is seldom fifty lines in a
 Press and commonly fewer.

The Marshal's Fees, as they were certi-
fied by Sir William Knowles, Kt.
sometimes Marshal of the King's-
Bench, as appeareth by Mr. Antro-
bus's Book.

Marshal's
Fees.

Imprimis, For the enlargement of every
 Prisoner under his charge, which is
 termed a dismissal Fee, 01 00
Item,

Item, He demandeth for every Prisoner upon his enlargement a Fine for not wearing of Irons,

For Executions, in every Pound,

00 03

For Actions, in every Pound, *Id. ob.*

But he agreeth with the Prisoners at lower rates.

The Marshal taketh for every dismissal more than the former Fee of 10s.

08 08

The Deputy-Marshal and Marshal's Men take for every Prisoner that is committed in the Court, *Marshal's Deputy.*

05 06

And for every Prisoner committed from the Judges Chamber,

02 06

The Deputy-Marshal taketh for the allowance of every *Habeas Corpus*,

02 06

Moneys and Fees due and received by the Filizers.

For every *Capias*, *Alias*, *Plur'*, *Testat'* *Filizers.*

Exig', *Proclam'* and *Distringas* in Tretpass,

00 06

For every *Exig'* and *Proclam'* in *replevin*,

00 06

For every *pone Capias*, *Alias*, *Plur'* and *Testat'* in *replevin*,

00 06

For

For every <i>Supersedeas</i> upon the mean	
Process aforesaid,	02 00
For every <i>Capias</i> , <i>Alias</i> , <i>Plur'</i> , <i>Testat'</i> ,	
<i>Exig'</i> in trespass <i>super casum</i> , every	
<i>suit qui tam</i> , &c. in every <i>Rapt'</i> <i>Cu-</i>	
<i>stod.</i> in every Trespass, <i>contra for-</i>	
<i>nam ordinationis</i> , every <i>Ejectione fir-</i>	
<i>me</i> , and such special Writs,	01 00
For the Proclamations thereupon,	
	01 00
For the <i>Distringas</i> thereupon,	01 00
For every <i>Capias</i> , <i>Alias</i> , <i>Plur'</i> in appeal	
of <i>mahem'</i> ,	01 00
For every <i>Capias</i> , <i>Alias</i> , <i>Plur'</i> in ap-	
peal of Robbery,	02 00
For every name in every <i>Capias</i> , <i>Alias</i> ,	
<i>Plur'</i> in appeal of Murther,	02 00
For every Proclamation in every ap-	
peal,	02 00
For every general <i>Capias utlagat'</i> & <i>de-</i>	
<i>liberat' de Record.</i>	00 10
For every special <i>Capias utlagat'</i> & <i>de-</i>	
<i>liberat' de Record.</i>	02 04
For every <i>Resum' habeas Corpus</i> & <i>di-</i>	
<i>stringas</i> in attaint before appearance,	
	02 00
For every <i>Delib' de Record.</i>	00 04
For every Writ of <i>Withernam</i> , second	
deliverance, and <i>retorn' habend.</i> be-	
fore avowry,	02 00
For every <i>Ven' fac.</i>	00 06
For	

For every *distringas Jur' deliberat' de Record. & Jur' Nisi prius*, 01 02

For every *Subpæna* upon Issue by original, 02 00

For entry of every Declaration in Trespas by original, 01 00

For entering Not guilty thereto, 01 00

For Entry of every *Ejectione firme*, and upon the Case, not above three Sheets, 02 00

If longer, for every Sheet, 00 08

For a general imparlance, 00 04

For every special imparlance, 02 00

Copies of Writs of Attaint before appearance, *per* Sheet, 00 08

They make Bills of *Middlesex* and all *Distring.* and *Habeas Corpus per prec'* upon them for their Clients as Clerks of the Office may, and take the like Fees for them as they do.

All *Filizers* are Attornies in the same Court, and may take of their Clients for their Fees, and for drawing and ingrossing all Declarations, and for drawing all special pleadings, and for all copies in such cases wherein they are Attorneys as the Clerks of the Office may, but they may enter nothing on the Prothonotaries Rolls, but a Clerk of the Office must enter for them:

R

He

*He which enjoyeth the Office of Porter
and Crier claimeth as due to him and
acknowledgeth to have taken by him-
self and his Deputies in the Court these
Fees following.*

<i>Crier and Porter. As Crier.</i>	For calling a Jury,	02	00
	For every Oath given in Court,	00	04
	For taking a privy Verdict,	04	00
	For every argument in Law,	02	00
	For every wager in Law,	02	00
	When one chuseth his Guardian,	6d.	
	For a Bail taken at the Bar,	02	00
	For calling a Nonsuit;	04	00
	For calling the Record,	01	00
	For calling a Default,	01	00
	When a Pardon is pleaded,	02	00
<i>As Porter.</i>	For every Tryal at Bar,	05	00
	For every privy Verdict,	02	00
	For summoning the Wager Men,	03	00
	For a Bail taken at Bar,	02	00
	For a Record called,	00	06
	For a Default called,	00	06
	For a pardon pleaded,	02	00
	For a discharge of a Rescous,	00	04
	For a Bail taking in the Court,	00	06
			Of

Of all these Fees above mentioned,
claimed by the Crier and Porter, these
following have been paid as due during
the time of our knowledge.

For calling a Jury,	01	00	<i>As Crier</i>
For swearing every Witness,	00	04	
For a wager in Law,	01	00	
For a Nonsuit,	01	00	
For a Default of Record,	01	00	
For a <i>Defecit in Lege</i> ,	01	00	
For summoning the Wagermen,	03	00	

Also the Porter receiveth more of the *As Porter*
Wagermen, where the Defendant
wageth his Law or is ready to wage
his Law,

12 00

*Fees received by the Clerk of the Er-
rors immediately after the Statute
of the 27th of Elizabeth.*

For the Lord Chief Justice his Fee for <i>clerk of the</i> the allowance,	17	08	<i>Errours.</i>
For the Receipt,	05	00	
For the Return,	02	00	
For the Certificate of the first Press,	06	00	
For writing of the first Press,	02	00	
R 2			For

For a <i>Supersedeas</i> ,	02	07
These Fees amounting in the whole to 01 <i>l.</i> 15 <i>s.</i> 03 <i>d.</i> were paid upon the allowance and for the <i>Supersedeas</i> .		
For the certifying of it he taketh for every Press besides the first Press,	06	00
For the writing of every Press after the first,	01	00
For the Roll,	01	00
For marking <i>Non profs.</i> upon the Roll,	05	00

Also immediately after the making
of the Statute of *Anno 3 Jacobi Regis*,
the Fees taken for the Bail were as fol-
loweth upon a Writ of Errour.

For the Prothonotaries for the Recog- nizance,	02	00
For the Judge's Clerk,	02	00
For making the Bail,	00	04
For drawing and entering the Recogni- fance,	04	00
Now, and for the space of 30 years last past he hath taken upon the receipt of every Writ of Errour and <i>Supersed.</i> in a gross sum,		
Also for certifying every Press besides the last,	2 <i>l.</i>	6 <i>s.</i> 8 <i>d.</i>
	06	08
For		

For writing every Prefs besides the first,

For every *Supersed.* besides the first,
with the Seal,

These last Fees were set down by
Sir *John Popham*, late Lord Chief Justice,
ex relatione Edwardi Pye, now Clerk of the Errours, but we do not
certifie it of our knowledge.

Also he taketh, and for the space of divers
years now last past, hath taken in a
gross sum for every Bail,

For every Writ of Errour, *tam in redditione*
Judicii quam in adjudicatione Executionis,
he taketh double Fees.

The Fines.

There is an Office invented and erected about the sixth of King *James*,
and now exercised by *Henry Mordant*, Esquire, whereby is demanded and taken upon the filing of every Declaration in Debt, where the Debt is above 40*l.* and not above 100 Marks, 3*s.* 4*d.* and above 100 Marks and not above 100*l.* 5*s.* and so more after the same rate; and also every Action upon the Case, Trespass for Goods, where the

Damages are laid above 40*l.* the like rates so that the Plaintiff or Defendant be not a Person privileged nor the Defendant in *Custod. Mar.* whereas before 6 *Jacobi Regis* in all our memories no such monies were paid or demanded.

The Seal Office.

<i>Seal Office.</i>	The Officer or Patentee receiveth for every Writ (besides <i>Cap' utlagat'</i> , and other Writs <i>pro Rege</i> , and for Exemplifications and Writs of Privilege).	00	07
	And for every <i>Cap' utlagat'</i> ,	00	01
	For Exemplifications,	02	06
	For all other Writs <i>pro Rege</i> and for Writs of Privilege nothing.		

Fees for Trials at the Bar, taken by several Officers as followeth.

<i>Trials at Bar.</i>	The Cryer for calling the Jury,	02	00
	For swearing every Witness,	00	04
	The Porter for keeping the Doors,		
		05	00
	The Crier for a Nonsuit,	02	00
	The Deputy-Marshal,	02	00
	The Tipstaves or Marshal's Men for a Verdict		

Verdict given before the Court ri-		
seth,	08	06
If the Jury lie together all Night,		
	17	08
The Judges Foot-cloth Men 15. a-piece,		
	04	00
The Secondary receiveth for a privy		
Verdict,	13	04
The Secondary receiveth for a Verdict		
in Court,	02	00
The Money he receiveth for the pri-		
vy Verdict he saith is thus divided, viz.		
The Judge that taketh the Verdict,		
	06	08
To the Secondary,	02	00
And the rest among the Officers that		
attend,	04	08

Of all the Fees before mentioned,
we present these following to be due.

To the Crier for calling the Jury,		
	01	00
For swearing every Witness,	00	04
For calling a Nonsuit,	01	00
To the Deputy-Marshal,	02	00
To the Porter for keeping the Dore,		
	01	00
To the Secondary for taking the Ver-		
dict in Court,	02	00

For a privy Verdict to the Secondary,

13 04

Which is divided as aforesaid.

And now they take no other Fees than these last mentioned.

We pay into the Crown-Office for estreating every Amercement upon a Sheriff.

01 00

The Clerks of the Office have formerly paid no Fees at the Trials in causes at their own suits, but now they pay for their own Causes as for their Clients.

Also there is paid to the Secondary his Clerks by every one of the Prothonotaries Clerks every Term that he faileth to bring in his Rolls within 24 days next following after Trinity Term, Michaelmas and Hilary Terms respectively, and within 10 days next after Easter Term, 1s. whereas they have always formerly had time to bring them in untill the Effoin day of the next Term without Fee.

Also there is paid to the Secondary his Clerk for the filing of every common Bail after six days after every Term over and above the due Fee, 4d. the Table of which several payments last mentioned is remaining in the King's-Bench Office.

These

These be all the matters which for the present we remember, and which we conceive to be within our charge to be inquired of and certified: And we farther certifie that every one of us doth not know all and every the Fees and matters herein certified to be true, or that they have been paid of our own proper knowledge, but some of them some of us respectively knoweth of his own knowledge, and some of them we take by relation and information of some others of us that have hereunto subscribed, upon whose information and relation we believe these things to be true. And there have been produced and shewed unto us certain ancient Books, or Notes, remaining in the hands of *Christopher Hoddesdon*, *James Tetlowe*, *Richard Antrobus* and *Richard Barnett*, wherein some of these Fees were written, whereby we are induced to believe the said Fees in the said Books or Notes contained to be anciently due and payable; the Copies of which Books or Notes so to us produced, according to our charge in that case, we are ready to shew to his Majesty's said Commissioners, together with this our *Certificat*. And we do farther certifie that we know
not

not of any other Books, Rolls, Deeds, Records, Orders, Tables, Notes, or any other Writings, *Memorandums* or Warrants which may give any farther testimony concerning the premisses, except one Note or Book remaining in the hands of *William Langborn*.

Robert Redwood.
William Harvey.
Francis Beard.
Laurence Gibson.
Christ. Hoddesdon.
James Tetlowe.
Stephen Bunce.
Lewis Bromhall.
Robert London.
William Tompson.
Thomas Farrer.
Simon Harborn.
Richard Brittain.
Richard Barnett.
William Small.

Edmund Denny.
Nicholas Tippet.
Thomas Powell.
Richard Antrobus.
John Green.
John Badger.
Felix Wilson.
Robert Clark.
Ambrose Mudford,
Richard Slater.
William Jumper.
William Leach.
Gilbert Barrell.
John Dobbins.

These

These Fees following were not certified in the former Verdict, but thought fit by most of the Jury, to be left out as things not inquireable or comprehended within their charge.

To the Associate for entring a Cause in the Lord Chief Justice his Book.

II 08

To the Sheriff for the Return of the *Venire fac'*,

00 04

For Return of the *Distring'*,

02 04

For the Sergeant for summoning the Jury,

03 04

To the Marshal,

02 00

To the Crier,

01 00

To him for swearing every Witness,

00 04

To the Sheriff for a *Tales*,

02 00

To the Associate for a *Tales*,

02 04

To him for a Default,

02 04

To the Hall-keeper for the Green-cloth,

01 06

If it be in the Night, to him for Lights,

00 06

To the Bar-keeper,

01 00

To the Sergeant for keeping the Jury,

01 00

To the Jurors,

08 00

Innovated

Innovated Fees.

To the Associate for taking out of a
Record not tried, 02 00
Which began first about twenty years
past.

To him that Readeth the Records and
evidences, and taketh the Verdict,

01 00

Which hath continued about thirty
years.

To the Judges Foot-cloth and Horse-
keeper, for every Cause, 01 00

Which hath been above thirty years.

To the Associate for the Return of the
Postea. 02 00

If the Verdict pass for the Defen-
dant, or the Plaintiff be nonsuited then
there are these Fees taken of the De-
fendant again.

To the Marshhal, 02 00

To the Crier, 01 00

To the Foot-cloth keeper, 01 00

To the reader of the Record. 01 00

This use began about nine years past.
Also for every *Remanet* where the Plain-
tiff is not in default, the Associate ta-
keth for entring the Cause again in
the

the Lord chief Justice his Book if he
will have it tried. 11 08

This hath been used above twelve
years.

*Fees paid in our memories for a Nisi
prius in Middlesex.*

To the Associate for entring the cause
in my Lord's Book, 11 08

To the Sberiff for the Return of the
Venire facias, 02 00

To him for the Summons and the *Distr'*,
12 00

To the Judges Marshal, 02 00

To the Crier, 01 00

To him for swearing every Witness,
00 04

To the Sheriff for a *Tales*, 02 04

To the Associate for a *Tales*, 02 04

To him for a Nonsuit, 02 04

To the keeper of the Juries, 01 00

To the Porter, 01 00

To the Jury, 12 00

Innovated Fees.

To the Associate for Return of the
Postea. 02 00

To

To him that readeth the Record and
Evidence, and taketh the Verdict,

01 00

To the Judges Foot-cloth and Horse
keeper,

01 00

This hath continued about 30 years.

To the Associate for taking out of a Re-
cord not tried,

02 00

This began about sixteen years past.

If the Verdict pass for the Defendant,
or the Plaintiff be Nonsuited, then the
Defendant must pay these Fees follow-
ing again.

To the Marshal,

02 00

To the Crier,

01 00

To the Foot-cloth or Horse keeper,

01 00

To the Reader of the Record,

01 00

This use began about 12 years past.

The Marshal's men demand and take
for the keeping of the Jury at *Nisi*
prius in *Middlesex*.

03 06

Which is more by 2s. 6d. than is taken
in like case in *London*.

Fees paid in our time to the Clerk that draweth up Special Verdicts in London or Middlesex.

For drawing it up <i>per</i> Sheet,	01	00
For indorsing it <i>per</i> Sheet,	00	08
For copying it <i>per</i> Sheet,	00	04

Fees paid all our time for drawing a Special Verdict at the Bar.

For drawing it <i>per</i> Sheet,	01	00
For Copies <i>per</i> Sheet,	00	04

Fees paid to the Clerk of the Assizes for Postea in our memories.

For returning every *Postea* the Verdict passing for the Defendant, or the Plaintiff Nonfuit,

02 00

For drawing a special Verdict *per* Sheet,

01 00

For every Copy thereof *per* Sheet,

01 00

But now the Clerk of the Assizes taketh for returning every *Postea* with a general Verdict, 2s. if it be long and contain

contain divers Issues then more than	02	00
For two Copies, <i>per</i> Sheet severally,	00	08
For ingrossing <i>per</i> Sheet,	01	00

Fees paid to the Sheriffs during our memories.

For returning a <i>Cepi Corpus</i> .	00	04
For returning a <i>Venire fac'</i> in <i>London</i> ,	00	04
For returning it in any other County,	02	00
For returning a <i>Scire fac'</i> with a <i>Ni-</i> <i>chil</i> ,	01	00
For returning a <i>Scire fac'</i> with a <i>Scire</i> <i>feci</i> ,	02	00

Finis Feod. de Banc le Roy.

THese were Attornies (no doubt) of the greatest knowledge in those times, and most fit to be concerned in such an Inquiry after the Fees of that Court wherein they were Attornies: The three first were Clerks in the

the Crown Office, as I have been informed; *Hoddesdon* was afterwards Secondary of the Court, *Small* of *Furnival's-Inn*, *Denny* of *Clifford's-Inn*, *Slater* one of the Clerks of the *Nisi prius* Office in this Court, *Leech* was the now Secondary's Master, *Barrell* Clerk of the Rules; some of these I knew, and the greatest number of them that did so present as aforesaid were Clerks to the then chief Clerks, and it may be some of them were well known to some of the now Judges Officers and Attornies of this Court, and it is strange that they should not understand well their Master's Fees above all others; and yet these Attornies have presented those Fees for entring Issues by Original to be due to the *Filizers* which the now chief Clerk claims to be due to him, and the same Attornies that presented theirs, at the same time presented the then chief Clerk's also; which Fees cannot be admitted to be his due and the *Filizers* Fees presented denied to be their due, except it must be presumed they swore right and were very honest men as to one part of the said Presentment, and perjur'd and very dishonest men as to some other part of it; which cannot be, for *Juramentum est indivisibile,*

S

divisibile, & non est admittendum in parte verum & in parte falsum, as my Lord Coke hath it in his 4. *Inst. c. 64*. But (as is said before) the original Presentment cannot be found, whether it be burnt, or mislaid, or kept secret, or what is become of it is hard to determine, although it hath with great care and pains been sought after, and if it shall not in some short time be brought to light it may be an inducive cause hereafter, I hope, to our most gracious Sovereign Lord the King that now is, to grant another like commission when he in his abundant Princely wisdom and goodness shall think fit, that so there may be a standing Rule for the future by which the Fees of this Court may be taken and thereby all extortion avoided. But that all the Fees that do belong and have been usually paid to the *Filizers* of this Court in their several capacities, are not mentioned in the said Presentment, is very plain and obvious in that these following are casually omitted; that is to say, there is no Fee inserted for the entring of the appearance, either general or special, nor for the Writ of *Allocat'*, nor for the *Scire fac'*, nor for the length of any Writs

Writs or Proceſs, nor for the entring of any ſuch Writs or Proceſs, nor for the tranſcribing of the ſpecial Outlaries with Inquiliſions returned into the Exchequer, which as Clerks of the Outlaries they ought to do, as well as the Clerk of the Outlaries in the *Common-Pleas*, nor in caſe there be more than four Names in a Writ, (except Men and their Wives) then to pay double Fees as now is paid (if it be ſo) for *Latitats* nor for any *Diſtring'* againſt a Peer, againſt a Corporation, or againſt a Hundred, nor for any *Teſtat' Diſtring'* or *Teſtat' Pone*, nor for any Writ of *Homine replegiando*, or *Capias in Withernam* thereupon, or *Teſtat' Capias in Withernam*, and divers other things as Inrol-ling of Indentures and the continuance of Proceſs, and the like; but *Bernardus non vidit omnia*. And it is certain the *Filizers* have made and do make all and ſingular the Writs and Entries above mentioned, as is before proved, and therefore certainly ſome Fees are due to them for ſo doing, but what the due Fees are herein I cannot ſet down, becauſe I know them not in particular, but ſhall leave them to the Judgment of the Judges of this honourable Court to determine what the *Filizers* ought

to have in such cases, onely the Reader may observe, if he pleases to look back into the aforesaid Presentment, and there among the *Filizer's* Fees he will find that for entring of Issues, if they were above three Sheets they are allowed there 8*d.* *per* Sheet: And likewise the said Presentment mentions a Fee for every Writ of *Witbernem*, second Deliverance and *Retorn' habend.* before Avowry, which seems to imply as if the *Filizers* had nothing to doe with it after Avowry; if so, how comes it to pass that since the said Presentment was made they have entred Replevins, Avowries and Pleas in Bar thereunto, and Judgments thereupon, on their *Filizer's* Rolls, as may appear among the many Entries of Issues by Original Writ before recited; for the very next Term after it was made, to wit, in *Trin.* 6 *Car.* 1. one *Gosnold*, *Filizer* of *Suffolk*, entred a *Scire fac'* in replevin and in *Hill.* 7 *ejusdem*, *Nil dic'* in replevin entred by the *Filizer* of *Somersetshire*, in *Hil.* 12. one *Eveleigh*, *Filizer* of *Devon*, entred two Issues in replevin, and in *Pasch.* 14. *ejusdem*, *Rot.* 7. one *Wright*, *Filizer* of *Sussex*, entred a Replevin with an Avowry, and Plea in Bar and Judgment for the Avowant,
and

and a Writ of Enquiry for Damages awarded, in *Mich.* 14. the like by *Payn, Filizer of Suffex*, in *Hil.* following the like by the said *Payn*, *Trin.* 15. an Issue in Replevin by the said *Payn*, in *Hil.* 17. *Rot.* 22. one *Blincoe, Filizer of Somersetshire*, entred a Replevin with an Avowry and Plea in Bar, in *Hil.* 1652. *Rot.* 16. one *Woodeson, Filizer of Yorkshire*, entred a Judgment in replevin, with a *Retorn' habend.* and a *Cap. in Withernam* awarded, in *Hil.* 1655. *Rot.* 12. one *F. Gregg, Filizer of Derbyshire*, entred a special Plea in replevin, and *Non prof. superinde*, and *Retorn' habend.* in *Trin.* 1657. *Rot.* 14. the aforesaid *Payn* entred three several Declarations in replevin, and for want of Avowries several Writs of *Pone* are awarded, in *Pas.* 23 *Car. Regis nunc Rot.* 16. one *Bathurst, Filizer of Kent*, entred a Judgment in replevin, a *Retorn' habend. Averia elongat'* and a *Cap. in Withernam* awarded, and many more might be here inserted but these may suffice. And whereas the said Presentment (*prima facie*) may seem likewise to contradict it self (which well considered upon a review of the whole matter it doth not) in that there is set down some Writs of the same nature and by the same names,

to belong both as well to the chief Clerk, or Prothonotary, as also to the *Filizers*, and among others I shall observe these, as namely, the *Supersedeas*, *Habeas Corpus*, Process in appeal, *Sub-pœna*, Resummons, and the like; now to reconcile this seeming contradiction, the Reader is to take notice that these last mentioned Writs, and such like other Writs also, may and do belong to the chief Clerk, or Prothonotary; when the Action is commenced by Bill without Writ, (as it is elsewhere observed that upon a *Scire fac'* to revive a Judgment by Bill, it is always said *per Billam sine Brevis nostro ac per Judicium ejusdem Cur' recuperasset*, &c.) So when it is commenced by Writ, that is to say, original Writ out of *Chancery*, then may and do the said last mentioned Writs and other such like Writs also belong unto the *Filizers*, to
thereunto, and Judgments thereupon, on their *Filizer's* Rolls, as may appear among the many Entries of Issues by Original Writ before recited; for the very next Term after it was made, to wit, in *Trin. 6 Car. 1.* one *Gosnold*, *Filizer* of *Suffolk*, entred a *Scire fac'* in replevin and in *Hil. 7 ejusdem*, *Nil dic'* in replevin entred by the *Filizer* of *Somersetshire*, in *Hil. 12.* one *Eveleigh*, *Filizer* of *Devon*, entred two Issues in replevin, and in *Pasch. 14. ejusdem*, *Rot. 7.* one *Wright*, *Filizer* of *Sussex*, entred a Replevin with an Avowry, and Plea in Bar and Judgment for the Avowant,
and

the Defendant be attainted by Judgment, &c. or by Outlawry, the pardon of the King shall not discharge the Defendant; and the reason certainly is very strong and prevalent. Now the Appellors may sue such Defendants or Appellees rather, by way of Appeal either by Writ or by Bill, as the said Lord Coke saith in his said *Inst. Cap. 50. fol. 114.* of Clergy, speaking of the Statute that gives it, that that act extendeth not to Appeals by Writ or Bill nor to Appeals of the Approvers, and the late Reverend and Learned Judge Hale, in his Book of *Pleas of the Crown*, fol. 179. Title *Appeals*, saith that they are of two sorts, by Writ and by Bill; touching Appeals by Bill, saith he, they may be prosecuted in this Court, against any that is in *Custod. Marescalli*, or let to Bail, they are the Sovereign Coroners; and in many other cases which I here omit: be-

entred three several *Replevins*, and for want of Avowries several Writs of *Pone* are awarded, in *Pas. 23 Car. Regis nunc Rot. 16.* one *Bathurst, Filizer of Kent*, entred a Judgment in replevin, a *Retorn habend. Averia elongat* and a *Cap. in Witherham* awarded, and many more might be here inserted but these may suffice. And whereas the said Presentment (*prima facie*) may seem likewise to contradict it self (which well considered upon a review of the whole matter it doth not) in that there is set down some Writs of the same nature and by the same names,

to belong both as well to the chief Clerk, or Prothonotary, as also to the *Filizers*, and among others I shall observe these, as namely, the *Supersedeas*, *Habeas Corpus*, Process in appeal, *Subpœna*, Resummons, and the like; now to reconcile this seeming contradiction, the Reader is to take notice that these last mentioned Writs, and such like other Writs also, may and do belong to the chief Clerk, or Prothonotary; when the Action is commenced by Bill without Writ, (as it is elsewhere observed that upon a *Scire fac'* to revive a Judgment by Bill, it is always said *per Billam sine Brevis nostro ac per Judicium ejusdem Cur' recuperasset*, &c.) So when it is commenced by Writ, that is to say, original Writ out of *Chancery*, then may and do the said last mentioned Writs and other such like Writs also belong unto the *Filizers*, to instance in one particular and more plainly as to this matter, in that of Appeal, my Lord *Coke* saith in his 3 *Inst. Cap. 105. fol. 237.* of Pardons, that in an Appeal of Death, Robbery, Rape, &c. the King cannot pardon the Defendant and his reason there given is, for that the Appeal is the Suit of the party to have revenge by death, and whether the

the Defendant be attainted by Judgment, &c. or by Outlawry, the pardon of the King shall not discharge the Defendant; and the reason certainly is very strong and prevalent. Now the Appellors may sue such Defendants or Appellees rather, by way of Appeal either by Writ or by Bill, as the said Lord Coke saith in his said *Inst. Cap. 50. fol. 114.* of Clergy, speaking of the Statute that gives it, that that act extendeth not to Appeals by Writ or Bill nor to Appeals of the Approvers, and the late Reverend and Learned Judge Hale, in his Book of *Pleas of the Crown, fol. 179.* Title *Appeals*, saith that they are of two sorts, by Writ and by Bill; touching Appeals by Bill, saith he, they may be prosecuted in this Court, against any that is in *Custod. Marescalli*, or let to Bail, they are the Sovereign Coroners; and in many other cases there expressed, which I here omit; because the matter of Appeals being very large and copious in its own nature may deserve hereafter to be spoke to by it self. And I should not have said thus much now, had it not been to set forth how that the Writs aforesaid and other such like Writs agreeing both in their name and nature, and being presented

in the said Presentment of Fees; may both belong to the chief Clerk, or Prothonotary, when proceedings are by Bill and not otherwise, and to the *Filizers* when they are by Writ and not otherwise, &c.

There was also another Presentment made about eight years after that (and why so soon after it I cannot imagine) for it is dated the 24. day of *November*, *Anno Dom.* 1638, by virtue of his said Majesty *Charles* the first his command signified to the then Lord Keeper and Judges, in these words.

It is his Majesty's pleasure that the Judges of all his Majesty's Courts at *Westminster*, that have accustomed to impanel Juries (of the Officers and Clerks of the same Courts) to inquire of matters concerning the same Courts, shall impanel such Juries this Term, and inquire what Fees have been taken in such of his Majesty's Courts of Justice by the several Officers of the same Court, by the space of thirty years last past, upon Certificate whereof his Majesty will take such course for the settling of those Fees in the said several Courts as to his wisdom shall seem meet; And the Lord Keeper is not only

ly to perform this his Majesty's pleasure in the Court of Chancery, but to signifie the same his Majesty's pleasure to the Judges of the other Courts that they may perform the same this Term. At the Court of *White-hall*, October the 17. 1638.

Francis Windebanck.

These are the very words of his then Majesty's Command, in Obedience whereunto within four days of the end of that Term another like Presentment was made, a Copy whereof I now have in my hands, and it follows in these words.

A Presentment upon Oath of all such Fees and Payments as now are, and by the space of thirty years now last past have been used to be taken by the several Officers, Ministers or Clerks of the Court of King's-Bench, hereafter mentioned, as belonging or claimed to him or them, by reason of his Office, Place or Clerkship by Us whose Names are hereunder written. The 24. day of November, 1638.

In which Presentment (among all the other Officers Fees of this Court,
which

which for brevity sake I omit) is presented the same Fees over again (as in the former Presentment) due to the *Filizers* of this Court, under this very same expression (as before) *viz.*

Monies and Fees due and received by the Filizers.

And at the bottom of the said last Presentment, it is thus concluded.

These be all the Fees for the present we remember, saving to the Court all such rights and Fees as we remember not, and may happen according to the extent and jurisdiction of the Court, and we know of no Fees taken, begun enhaunfed, encreased or innovated, within the space of thirty years now last past.

* *Chr. Hoddesdon.*

John Woodward.

* *Simon Harborn.*

Reynold Bryan.

* *William Jumper.*

Laurence Coldham.

William Hubbard.

Thomas Lethbridge.

* *Laurence Gibson.*

* *Richard Antrobus.*

* *Edmund Denny.*

George Merefield.

* *William Small.*

Thomas Dawborn.

and,

Nicholas Wemm.

These

These were the Names of the then Jury of Attornies, the first of them was Secondary of this Court soon after, and I desire the Reader to take notice that seven of them (thus * marked) were of the former Jury, six of them I knew, and I believe many more of them were known to the now Judges or Officers of the Court, and all or the most of them Clerks to the then chief Clerks; but I shall urge that reason no farther, onely I observe that by virtue of the said Mandate from his then Majesty there was the like Presentment made of the Fees in the Court of *Common-Pleas*, * and in-
* Note the prudent care of that Court to inroll their Fees.
 rolled upon Record in that Court, as by the Records of Michaelmas Term, 15 *Car. primi*, Rot. 889. may appear, and it had not been amiss certainly if it had been so in this, but it seems this was omitted also; and I find by some printed Rules and Orders of this Court, made and published in Michaelmas Term, *Anno Dom.* 1654. by the then Judges thereof, namely, *Rolle*, *Aske* and *Newdigate*, before mentioned, amongst other things it was ordered that a Jury of able and credible Officers, Clerks and Attornies once in three years be impannelled and sworn to inquire, first of the points usually in-
 inqui-

inquirable by Writ, *viz.* Falsities, Contempts, Misprisions and Offences; Secondly, Of such who have been admitted Attornies or Clerks, and are notoriously unfit, their names to be presented to the Court and they to be punished or removed, as the case shall require; Thirdly of new or exacted Fees, and of those that have taken them under whatsoever pretence, and to prepare and present a Table of the due and just Fees, that the same may be fixed and continue in every Office, and likewise for the *Marshalsey*, and that some persons be enjoined and sworn to give evidence, (*viz.*) some Clerks of the Court, and some Attornies in every County, not excluding others. And no doubt but hereupon some Presentments were likewise made in this Court, but what became of them is unknown: And whether it be not fit that such Rules and Orders should still be made and continued in this Court, and duely put in execution; I do most humbly refer and submit to the Judgment and opinion of the now most Learned and Reverend Judges of the same.

*The Names of the present FILIZERS,
and where most of them are resident.*

- Bedfordsh.* *Edw. Smith*, at his House over against
the Blew Bore Inn in *High-holborn*.
- Berks.* *Robert Hastings*, at his house in *White-
chapel*.
- Bucks.*
- Cantabr.* *James Fuller*, of *Clifford's-Inn*.
- Cornub.* The same.
- Cumbr.* The same.
- Derbysh.* *Thomas Statham*.
- Devon.* *John Green*, in Ship Yard in *Bartho-
lomew-Lane*.
- Dorset.* *John Martin*.
- Ebor.* *George Woodeson*, at Mr. *Tho. Gallowe's*
Chamber in *Clement's-Inn*.
- Essex.* *William Twyford*, at the Wool-pack in
the *Poultrey*.
- Glouc.* *John Trye*, of *Gray's-Inn*.
- Heref.* *William Hastings*, at his house in *Hat-
ton Garden*.
- Hertf.* *William Ravenhill*, at *Grocer's Hall*.
- Huntingt.*
- Kent.* *Thomas Bathurst*, at Mr. *Oade's* a Scri-
vener in *Breadstreet Hill*.

Leicest.

- Leicest.* William Benson, at his House in *Shore-ditch*.
- Lincoln.* John Browning, at the Crown in *Kingstreet* by *Guildhall*.
- London.* John Trye aforesaid.
- Middlef.* The same.
- Monmouth.* John Smith, next dore to the Crown in the *Poultrey*.
- Norfolk.* William Avery, at *Gray's-Inn*.
- Northamp.* Godfrey Wildbore, at Mr. Hart's Chamber in *Clifford's-Inn*.
- Northumb.* James Fuller aforesaid.
- Nottingh.* The same.
- Oxon.* Henry Dodd, in the Paper Buildings in the Inner Temple.
- Rotel.* James Fuller aforesaid.
- Salop.* Bazil Hearne, at his House in *Basinghall Street*.
- Somersf.* Robert Randall, at Mr. *Abbingtons* in *Coleman Street*.
- Southamp.* Francis Caplyn, at his House in Wine-office Court in *Fleetstreet*.
- Staff.* Michael Martyn.
- Saffolk.* James Fuller aforesaid.
- Surrey.* John Trye aforesaid.
- Suffex.* Richard Aylwin.
- War.* James Fuller aforesaid.
- Westmorl.* John Hinde, at the Horns in Bell Yard.
- Wigorn.*
- Wiltf.* Samuel Porter, in Star Court in *Fri-day Street*.

Civ. Cant.

C. Cov.

C. Bristol. John Ayres, at Mr. Philip's House in
Wandall Court in Blackfryers.

C. Ebor.

C. Exon.

C. Glouc. Henry Ewen.

C. Lincoln.

C. Litchf.

C. Norw.

C. Wigorn.

Vil. Not. William Bennet.

V. Kingst. } William Osborne.
super Hul. }

V. South. Francis Caplyn aforesaid.

V. Pool.

V. nov. Cast. }
super Tin. }

And where it happens that there is no *Filizer*, any other of the above named *Filizers* may make out the Process, and the *Teste* of the chief Justice is sufficient, although without any *Filizer's* name to the same; and such *Filizer* may also doe and perform all other matters whatsoever subsequent or belonging thereunto, that so a failure of Justice in the proceedings may be prevented. And when any change shall happen in any of the aforesaid *Filizers* by death or otherwise, or any admitted

admitted into the vacant places, it may be known of the Keeper of the Sign of the *Lattis* in this Court, who keepeth a Book of the Names of the *Filizers*, Clerks of the Office and Attornies at large of the said Court, and the time when they were admitted.

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